

## **HAWAIIAN HOMES COMMISSION**

Minutes of August 15, 2022

Hilton Garden Inn Kaua`i Wailua Bay, Kuhio Ballroom  
3-5920 Kuhio Highway, Kapaa, Kaua`i, HI 96746  
and Interactive Conferencing Technology (ICT)

Pursuant to proper call, the meeting of the Hawaiian Homes Commission was held both in person and via Interactive conferencing technology, beginning at 9:30 a.m.

**PRESENT** William J. Ailā Jr., Chairman  
Randy K. Awo, Maui Commissioner  
Zachary Z. Helm, Moloka`i Commissioner (arrived at 9:47 a.m.)  
Michael L. Kaleikini, East Hawai`i Commissioner (arrived at 9:55 a.m.)  
Russell K. Ka`upu, O`ahu Commissioner  
Pauline N. Namu`o, O`ahu Commissioner (via ICT)  
Dennis L. Neves, Kauai Commissioner  
Patricia A. Teruya, O`ahu Commissioner (via ICT)  
Vacant seat, West Hawai`i Commissioner

**COUNSEL** Katie L. Lambert, Deputy Attorney General

**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  
Michael Lowe, Information Specialist

### **ORDER OF BUSINESS**

#### **CALL TO ORDER**

Chair Ailā called the meeting to order at 9:39 a.m. six (6) members were present at the roll call, establishing a quorum. Six (6) present, three (3) via ICT.

Chair Aila stated public testimony on any item relevant to this agenda may be given at this time, or a testifier may wait to testify when the agenda item is called for discussion. Pursuant to section 92-3, Hawai`i Revised Statutes, and section 10-2-11(c), Hawai`i Administrative Rules, the Chair of the Commission has the authority to impose reasonable conditions to ensure an orderly and efficient meeting.

Pursuant to Act 220, Commissioners Awo, Kaleikini, Ka`upu, and Neves are present. Commissioners Helm, Namu`o, and Teruya are on via ICT. The Board shall be visible and audible to members and the public. No other participants are required to be visible during the meeting. All votes shall be unanimous unless the Commission goes to roll call.

Chair Aila stated there was a typo on the Agenda. The titles on Items F-8 and F-9 should be switched. Items C-4, C-5, C-6, and F-3, were uploaded to the website and emailed to the

Commissioners after the packets were mailed. The Commission will recess around noon for about 30-minutes for lunch and reconvene for an executive session for an additional 30-minutes.

Tonight's community meeting is being held at King Kaumuali'i Elementary School. There was a request by Commissioners Namu`o and Teruya to speak loudly into the microphone as there have been challenges hearing the Commissioners.

### **APPROVAL OF AGENDA**

Commissioner Teruya asked if Item F-8 on Tuesday's Agenda was a deferral or for information only. Chair Aila stated Item F-8, at the applicant's request, will be deferred.

She added that items like F-6 and C-4, C-5, and C-6 are essential items, and receiving them late does not give her enough time to read through them. She asked about Item F-7 and stated she may have missed it. Chair Aila said it would be forwarded to her and apologized.

### **MOTION/ACTION**

Moved by Commissioner Neves, seconded by Commissioner Ka`upu, to approve the agenda with the deferral. Motion carried unanimously.

### **APPROVAL OF MINUTES JULY 18 & 19, 2022, REGULAR MEETING**

### **MOTION/ACTION**

Moved by Commissioner Teruya, seconded by Commissioner Ka`upu, to approve the July 18 & 19, 2022 Minutes. Motion carried unanimously.

### **PUBLIC TESTIMONY ON AGENDIZED ITEMS**

#### **PT-1 Blossom Feiteira – Various Concerns**

B. Feiteira testified that she opposes Item C-3 regarding securing legal counsel for the Commission and the Attorney General's office. She thinks it is a conflict of interest. If the Commission is willing to amend that legislation to substitute the Commission for the Department, she thinks the beneficiaries could get behind that proposal. They support No. 2, establishing a seat on the Commission of Water Resource Management; are in support of No. 3, the tax exemption for the GE taxes; in support of No. 4, giving the Department the authority to do its own historic preservation reviews with the concern that there must be some indication in the legislation for funding and to insure the person in that position has the expertise to do the job; in support of No. 5; for No. 6 regarding compliance and enforcement, she stated this iteration calls for going to Congress with an amendment to the Hawaiian Homes Commission Act which she thinks is not in the best interest of the Department or its beneficiaries. They support No. 7, No. 8, and No. 9, but with concerns, in support of No. 10, to extend the deadline for Act 279. She asked that this legislation shows an amendment to Chapter 199.

Regarding Item D-10, she is concerned about rumors that the Department is encouraging undivided lessees to rescind their leases and return to the waitlist. She asked if this undivided interest lessee received advice or recommendation on other options he may have, such as transferring it to a family member or taking advantage of the NAHASDA program. She suggested that the item be deferred until the Commission can converse with the lessee.

Chair Aila stated staff does not give advice, but they can provide options and the consequences of various options, should he consider them. The Department has been in contact with him and has let him know the implications of the requests. The Department is not encouraging undivided interest to transfer their undivided interest or rescind and return to the waitlist. He wanted to make that clear for everyone out there.

B. Feiteira stated she was called to sit with rental tenants in La`i `Opua with concerns about documents they have been asked to sign. One document says, “for an undivided interest lessee to take advantage of this rental, they have to rescind their lease.” The lessee or the applicant has the option and responsibility to make that decision. Chair Aila stated it is a peculiarity with the rent with the option to purchase because of procedural and legal requirements.

She talked about the eight submittals received under separate cover. She stated providing the information to the Commission in such a manner does not provide them with the time necessary to properly review and make a conscious decision, particularly when it is up for approval. It is a major concern for her, and she would like to testify to those items when they come up. Chair Aila stated she could.

## **ITEMS FOR DECISION MAKING**

### **CONSENT AGENDA**

#### **HOMESTEAD SERVICES DIVISION**

- ITEM D-2 Approval of Consent to Mortgage (see exhibit)**
- ITEM D-3 Approval of Homestead Application Transfers / Cancellations (see exhibits)**
- ITEM D-4 Commission Designation of Successors to Application Rights – Public Notice 2021 (see exhibit)**
- ITEM D-5 Approval to Certify Applications of Qualified Applicants for the Month of July 2022 (see exhibit)**
- ITEM D-7 Approval of Assignment of Leasehold Interest (see exhibit)**
- ITEM D-8 Approval of Amendment of Leasehold Interest (see exhibit)**
- ITEM D-9 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)**
- ITEM D-10 Rescission of Homestead Lease Award and Reinstatement of Application, Undivided Interest**
- ITEM D-11 Commission Designation of Successor - JOSEPH K. KANEAKUA, JR., Residential Lease No. 8767, Lot No. 3, Waimanalo, O`ahu**
- ITEM D-12 Conditional Approval of Subdivision, Transfer of a Portion of Lease and Amendment to Lease No. 2891-A, Lot No. 127, Pana`ewa, Hawai`i – RAYMOND P. KEALA & RAELYNN K. CARPENTER**
- ITEM D-13 Cancellation of Lease – AMINTA D. OPMPIIROY -RODRIGUES, Residential Lease No. 9671, Lot No. 254, Keaukaha, Hawai`i \**
- ITEM D-14 Conditional Approval of Subdivision, Transfer of a Portion of Lease and Amendment to Lease No. 00951, Lot No. 133, Keaukaha, Hawai`i – PETER K. PAULO, JR. & ELJIN CALLES**

#### **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.

Commissioner Awo asked to pull Item D-10 for further discussion.

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Neves, to approve the Consent Agenda minus Item D-10.						
Commissioner	1	2	`AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm			X			
Commissioner Kaleikini	X		X			
Commissioner Ka`upu		X	X			
Commissioner Namu`o			X			
Commissioner Neves			X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			8			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Eight (8) Yes votes.						

**REGULAR AGENDA**

**OFFICE OF THE CHAIRMAN**

**ITEM C-1 Acceptance of the 2022 Annual Performance Report (APR) – Native Hawaiian Housing Block Grant**

RECOMMENDED MOTION/ACTION

NAHASDA Manager Lehua Kinilau-Cano presented the following:  
Motion that the Hawaiian Homes Commission accept the 2022 Annual Performance Report (APR) – of the Native Hawaiian Housing Block Grant

MOTION

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

DISCUSSION

L. Kinilau-Cano stated this was presented last month as a draft and has not changed.

Commissioner Teruya asked if the emergency rental program is the one that the Council for Native Hawaiian Advancement (CNHA) administered. L. Kinilau-Cano stated it is part of it, and NAHASDA funds were used. A small portion went to Aloha United Way, which administered the program before CNHA. Commissioner Teruya asked if the NAHASDA funds could be available for neighborhood security watches for low, poor, and minority communities. L. Kinilau-Cano stated when this was initially proposed, there was the idea of this being a mechanism to provide funding for the enforcement division that is being requested. It would be more appropriate to do the feasibility study first and see how NAHASDA can support that effort.

ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, 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 Kaleikini			X			
Commissioner Ka`upu			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			8			
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.						

**ITEM C-2 Acceptance of the 2022 Abbreviated APR – NHHBG made available under the American Rescue Plan Act of 2021**

RECOMMENDED MOTION/ACTION

NAHASDA Manager Lehua Kinilau-Cano presented the following:

Motion that the Hawaiian Homes Commission accept the 2022 Abbreviated APR – NHHBG made available under the American Rescue Plan Act of 2021

MOTION

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

L. Kinilau-Cano stated the Department received \$5 million through the American Rescue Plan Act and \$5 million from the State’s allocation of Emergency Rental Assistance Funds. HUD gave specific guidance that allowed the funds to be used for the broad definition of native Hawaiians. In the law, NAHASDA broadly defines the native Hawaiian, which is not the same definition used in the Hawaiian Homes Commission Act. This authorization allows NAHASDA funds to be used on or off Hawaiian homelands for rental assistance. In addition to the regular NAHASDA funds, they deployed an additional \$10 million, assisting over 800 households. This was solely done with CNHA.

ACTION

Moved by Commissioner Teruya, 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			
Commissioner Helm			X			
Commissioner Kaleikini			X			
Commissioner Ka`upu			X			
Commissioner Namu`o			X			
Commissioner Neves		X	X			
Commissioner Teruya	X		X			

Chairman Aila			X			
TOTAL VOTE COUNT			8			
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.						

## HOMESTEAD SERVICES DIVISION

### ITEM D-10 Rescission of Homestead Lease Award and Reinstatement of Application, Undivided Interest

#### RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Juan Garcia presented the following:  
Move that the Hawaiian Homes Commission approve the Rescission of Homestead Lease Award and Reinstatement of Application, Undivided Interest

#### MOTION

Moved by Commissioner Ka`upu, seconded by Commissioner Neves, to approve the Consent Agenda Item D-10 as submitted.

#### DISCUSSION

Commissioner Awo stated this is an undivided lease, a beneficiary is giving up a lot, and the Department supports his decision to relinquish his undivided lease. This concerns him. The application date is 1972, 50 years ago, and this is a kupuna who is relinquishing his lease and returning to the waitlist. He cannot tell from the submittal what kind of discussions occurred, which is why the Commission is now discussing it. He is inclined to defer the item to get some confirmation.

Chair Aila stated this could be deferred to tomorrow. J. Garcia asked Commissioner Awo if the confirmation he wants is that Mr. King has received all information regarding his options. He ultimately wants to rescind his lease and return to the waitlist. Commissioner Awo agreed. He also noted that part of Mr. King's challenge is financial, and he wants to make sure Mr. King was provided all the financial opportunities that are available to him that might have changed his decision.

Commissioner Helm agreed with Commissioner Awo. He thinks it is important that staff provide information in writing for the undivided lessees.

Chair Aila stated Item D-10 is deferred to later in the agenda.

## OFFICE OF THE CHAIRMAN

### ITEM C-4 Approval of Act 279 Permitted Interaction Group Recommendations

#### RECOMMENDED MOTION/ACTION

Executive Assistant Jobie Masagatani presented the following:  
Motion that the Hawaiian Homes Commission accept and approve the preliminary strategic approach to implement Act 279 of 2022; and authorize the Chairman to begin implementing such plan.

#### MOTION

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

J. Masagatani stated that the strategic document would cover most of the Act that the committee presented last month. The committee will meet again sometime in September or October to complete the final elements. There will be one more report from the committee to the Commission before the plan is submitted to the Legislature in November.

Exhibit A essentially remains the same. The staff took the feedback received from the last Commission meeting and added the comments, particularly about being explicit about how beneficiary input was utilized and the opportunity for some of the Act 279 funding to be utilized for innovative financing for rental housing. The Department has existing projects such as the Ulu Ke Kukui and the rent with the option to purchase projects in Kona that face challenges due to the competitive low-income housing tax credit. The Department would have to meet very low incomes, and sometimes families that are selected do not have much to deal with increased expenses, and those candidates are good candidates but might make a little over the 30% or 60%. That was called out in this draft.

A. Choy clarified that the two major changes on the documents were how beneficiary input would be used and the change in the rental housing assistance.

Commissioner Teruya asked if the rental housing projects would be able to receive these funds. J. Masagatani suggested the Department speak to its partner developers to find out the challenges they are facing, so the Department can craft a program to address that. She stated the Department would want to talk with Hawai`i Housing Finance and Development Corporation (HHFDC), too, because there may be other projects that are not getting funded. This financing program could be crafted and flexible enough to consider those projects and the opportunity to buy the land. Those were just options that she suggested.

Commissioner Teruya commented that the Act's purpose is to get people off the waitlist. Do the people come off the waitlist when they get into a rental project? J. Masagatani stated right now, they would remain on the waitlist. Also addressed in Act 279 is a requirement that the Department also look at providing some inventory for individuals who prefer rental housing. There was a housing needs study that was done that indicated 17% do prefer rental housing.

Commissioner Helm asked if there were any feedback since the last July 2022 meeting regarding Act 279 and if they were receptive or positive. Chair Aila recalled that units were important and recognized that beneficiary preparation regarding financial literacy and some tweaking of the Department's procedures might be most beneficial.

Chair Aila stated that the intent is to set up a flexible process. As more information becomes available and more opportunities become available, the Department will be able to react promptly to those opportunities.

Commissioner Awo expressed his concern about receiving the item under a separate cover today with the expectation that the Commission will also approve it. He is not prepared to move towards approval until he has had adequate time to deliver the item.

Commissioner Ka`upu stated he is a member of the PIG committee and worked with staff on the revisions to the plan. Not all the blame for the lateness of the submittals is on staff. The PIG was appointed to have that level of review so that the full body doesn't need to go over each issue. It

was not only the staff but the committee members who were to blame for the lateness of the submittals.

Chair Aila stated the decision-making could be taken tomorrow if it helps to give more time to review.

J. Masagatani stated they could not move forward on any implementation of the money until there was some authorization from the Commission to spend the Act 279 monies. Item C-5 is the budget that builds off the strategic approach document, and she asked that she be allowed to present Item C-5.

Commissioner Teruya asked the item be deferred. Commissioner Helm agreed.

Chair Aila clarified that the new administration could come in; however, the decision on how the money is spent and the authority for a disposition is not with the Governor but with this Commission. Regardless of who the Governor is. This Commission must understand that it is the authorizing body for this Act 279, not the new or old administration.

Commissioner Awo added, for consideration, that he is willing to have a special meeting.

Commissioner Namu`o stated that as a PIG member, the staff put together a solid strategic plan, and she is confident that the budget staff will carry out what is needed to be done with the budget. Once it is approved and goes out, the Commission needs to be supportive and feel comfortable that the work done was pono and addressed the beneficiary input. She agreed to have it delayed for a vote.

Chair Aila asked for clarification regarding the delay of the vote; is it today or tomorrow? Commissioner Namu`o stated it would be up to the Commissioners, but it cannot go beyond today or tomorrow. Commissioner Kaleikini is okay with continuing today and tomorrow.

Commissioner Neves stated if the Commission needs more time, it should take more time. Chair Aila stated it would not be this week as the Commission would have to give the appropriate 6-day notice. He stated it sounds like there is disagreement on how much time to spend. J. Masagatani asked to present Item C-5 to answer any questions the Commissioners may have.

Chair Aila stated this plan, as important as it is, has to be flexible. He stated Item C-5 will be presented but is deferred to tomorrow.

### **ITEM C-5      Approval of Act 279 Implementation Budget Fiscal Year 2022-2023**

**DEFERRED** but presented

#### **RECOMMENDED MOTION/ACTION**

Executive Assistant Jobie Masagatani presented the following:

Exhibit B shows a 2-year capital projects encumbrance plan, which is the projects and potential costs. Monies are available for the lands and projects, unit acquisitions and project financing or potential partnerships. The budget being sought by the Commission is Table 1, which includes the capital projects for Year -1 listed in Exhibit B, along with \$60 million that the committee recommended being set aside for individual assistance programs and the ideas from beneficiaries and beneficiary-based organizations, non-profits, and housing providers. The budget for the first year that the staff requests is \$232,761.



The full allocation for the land and project financing, project acquisition, and project financing is in Year 1 to give flexibility to the Department as there might be a lot of opportunities coming forward in this first year. The \$1,000 place holders are to allow for projects that get delayed for unanticipated reasons.

DISCUSSION

Commissioner Teruya asked if Ulu Ke Kukui was in the exhibit. J. Masagatan stated no. Ulu Ke Kukui would come out of the Project Financing/Partnerships depending on the need and how the financing program is structured.

<b>RECESS</b>	<b>11:04 AM</b>	<b>1:34:40</b>
<b>RECONVENED</b>	<b>11:20 AM</b>	<b>1:50:07</b>

Chair Aila stated for tomorrow, Item F-6, the Revocable Pilot Program, will try to have a presentation by the consultants in the morning.

**LAND MANAGEMENT DIVISION**

**ITEM F-1 Approval to Annual Issue Renewal of Right-of-Entry Permit(s), Kaua`i Island (see exhibit)**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio and Land Agent Kaipo Duncan presented the following:  
Motion that the Hawaiian Homes Commission approve to issue of an annual renewal of Right-of-Entry Permit(s) on Kaua`i Island

MOTION

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

In Exhibit A there are five right of entries that staff asked the Commission not to renew due to delinquencies.

DISCUSSION

Commissioner Teruya asked about the process after the delinquencies are not renewed. K. Albinio stated the land agent would notify the tenants that their right of entry has been revoked due to delinquency, they are given 30-days to vacate. The enforcement process begins if they remain. Commissioner Teruya asked if clean up of the property is the tenant`s responsibility. K. Albinio confirmed there is a condition that tenants return the land to how it was before they used it.

Commissioner Helm asked if there is a method for collecting delinquent funds. K. Albinio stated the Department would seek guidance and assistance from the Attorney General regarding recouping the funds.

Chair Aila stated all those non-receivable accounts get referred to the Attorney General`s office, which decides on how to collect. Commissioner Helm asked if there was a good chance to recapture the funds. Chair Aila stated it depends on whether the business is solvent, whether it is

a partnership or if there are assets that the Attorney General's office can go after. It is done on a case-by-case basis.

Commissioner Neves stated Kauai Farm Fuels is \$30,000 in arrears. He wants to ensure they do a good environmental cleanup. K. Duncan stated Kaua'i Farm Fuels had left the site, which was an over-sight on his part. They are no longer there and must close it out with fiscal. Commissioner Neves' concern is the environmental issues.

Commissioner Kaleikini asked if the tenants were aware that cancellation was pending. K. Duncan stated no, not yet. They will wait for the Commission's action. Commissioner Kaleikini confirmed that they were behind 1-year in payment. K. Duncan stated one year and 6-months.

Commissioner Teruya asked if ROE 576 was notified that they were delinquent \$496 and to make a payment. K. Duncan stated they were not. Commissioner Teruya continued that the ROE is terminated, and the tenant pays the delinquency, does the Department take their payment, or is it final after the Commission votes? K. Albinio stated the Department would take the payment; however, the Commission already acted, and their ROE was canceled.

Chair Aila stated the Department would be able to accept full payment for the delinquency, but not anymore because that would provide them the right to continue.

Commissioner Ka'upu stated as he reads it that the ask is for the Commission to renew certain ROEs. For the ones highlighted in yellow, the ask is not to renew, which is different from asking for the Commission's approval to terminate those dispositions. So, if the tenant tries to come current and wants to renew the lease, LMD will not come back to the Commission.

Chair Aila stated the process would be the permittee would be canceled, and if he makes himself current, he would be able to come to the Commission to ask for a rescission of the action. When it is terminated, it is like asking for a new permit. K. Albinio stated September 1, 2022, would be the new period for the Kaua'i Right of Entries. Those canceled would not be able to continue after September 1, 2022.

Commissioner Ka'upu asked DAG Katie Lambert if the Commission would proceed and approve the cancellation. Should we verbally amend the submittal to include that we approve the cancellation for the rescission of those dispositions that are in default right now, or is the current request enough?

DAG Lambert stated the applicable statute is Chapter 171-55. That statute says that their month-to-month leases, which can be granted up to a year, must be renewed. If the action is to renew everything except for these delinquencies, it lapses by law. It is not a rescission; there is no longer any authority because the Commission did not grant its authority to continue the ROE for another month-to-month for up to a year. They would package it all up, the delinquencies, the notices, it would come to the Attorney General's office, and there they would proceed with the process. The delinquent tenants would then have no right to be there anymore. Commissioner Ka'upu stated the submittal, as written, is good.

Commissioner Teruya asked if Land Management Division knew when Kaua'i Farm Fuels vacated the property. K. Duncan stated they vacated about 2-years ago. Commissioner Teruya questioned how the department didn't know if it renews these every year. Why was it not on the flagged as a delinquency the past year. K. Albinio stated he believes it was on there as delinquent, but at the time the Commission wanted to work with the tenants who were in yellow.

Commissioner Teruya commented that when a property sits vacant for over 2-years, it gets vandalized and left with opala, and the Department gets stuck with the cleanup costs.

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 Kaleikini			X			
Commissioner Ka`upu			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			8			
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.						

**ITEM F-2 Approval to Issue a Right-of-Entry Permit to Kahu- O Ka Paka Kahakai O Anahola, Anahola Beach Park, Anahola, Kaua`i Island, TMKs (4-) 4-8-003:011, 013, 017; (4) 4-8-010:003, 005, 006, 010; and (4) 4-8-014:005**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio introduced Land Agent Kaipo Duncan, who presented the following:

Motion that the Hawaiian Homes Commission approve to Issue a Right-of-Entry Permit to Kahu- O Ka Paka Kahakai O Anahola, Anahola Beach Park, Anahola, Kaua`i Island, TMKs (4-) 4-8-003:011, 013, 017; (4) 4-8-010:003, 005, 006, 010; and (4) 4-8-014:005

MOTION

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

K. Duncan introduced Bully and Tina Aki for the presentation. T. Aki stated they hope to secure the Right-of-Entry to continue working on the Anahola Beach Park. They have been taking care of the park for the past 2-years and hope to have access to other DHHL lands to maintain it, keep it clean, and keep the homeless out. The park was overgrown and used as a racetrack before the community cleared manually. The goal is to share the energy and beauty of the park. The county helped to fix the road going in.

DISCUSSION

Commissioner Neves commented on their good job. He asked if the Department had helped them. She stated the Department has been giving them gasoline every month. He asked if the cables to put on the pole were still coming. K. Duncan stated yes. The plan is for a guardrail.

Commissioner Helm stated that 103 acres of parkland are big. He stated it is a good example of their dedication and asked how often they visit the park. She stated they go there daily to talk to the people and clean. She stated if you can get the community involved, it helps. Commissioner

Helm asked if they had amenities. She stated they have a water system but no bathroom, but there is a bathroom and shower on the county side. In their 5-year plan, they hope to build a nice pavilion with restrooms for gatherings and be handicap accessible.

Commissioner Awo commented that what they have done was impressive. He asked if they worked with the Department to see if they qualify for any grant opportunities. She stated they are working on their 501c3 to be eligible for grants.

**ACTION**

Moved by Commissioner Neves, seconded by Commissioner Ka`upu, 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			
Commissioner Kaleikini			X			
Commissioner Ka`upu		X	X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			8			
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.						

Chair Aila announced that the Commission would go into an executive session after Item F-3.

**ITEM F-3 Approval to Extension of Lease Term scheduled to expire in October 2022, for various General Leases, and Authorization to Issue Request for Proposals to redevelop and mitigate drainage in portions Moanalua Kai (Mapunapuna/Shafter Flats) Island of O`ahu (various TMKs)**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve to Extension of the Lease Term scheduled to expire in October 2022 for various General Leases and Authorization to Issue Request for Proposals to redevelop and mitigate drainage in portions of Moanalua Kai (Mapunapuna/Shafter Flats) Island of O`ahu (various TMKs)

MOTION

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

K. Albinio stated this was a two-part motion:

- A. A 10-year lease term extension and a modified fixed rent for each of the general leases identified on the list. There are eleven (11) listed that will be expiring on October 9, 2022. With their aggregate 55 years and the additional ten years, with a total of 65 years with the lease being set to expire October 29, 2032, and
- B. The preparation and issuance of a Request for Proposal for a developer agreement land disposition for the parcels identified in the list attached as Exhibit B.

He addressed how the Department acquired the parcels in Moanalua Kai with Exhibit C showing the land deed and how it came under Hawaiian Home Lands. The deed reads: the general leases to be extended were originally awarded to the State of Hawai`i, Department of Land and Natural Resources to various commercial tenants for a term of 55 years commencing on October 10, 1967. By way of a land exchange between the State of Hawai`i, Department of Land and Natural Resources, and DHHL consummated in April 1986, DHHL took title to all of the Moanalua Kai (Mapunapuna/Shafter Flats) properties and became the long-term Lessor under the respective General Leases. (Exchange Deed attached as Exhibit C)

### DISCUSSION

Commissioner Neves asked if the parcels in Exhibit B are going out as individual RFPs. K. Albinio stated it is not individual. It is to a developer.

Commissioner Teruya asked if WP was notified of not being current with their rent. K. Albinio stated they would be notified that they were delinquent. Their lease expires on October 9, 2022.

Commissioner Ka`upu asked about Exhibit A, Leases 9 & 10, and asked who Lease Properties Limited was. K. Albinio stated that it is the Watumull Family. They sublease out to tenants. Commissioner Ka`upu stated he thinks everything from the corner of Kilihau should be put up for development, Nos. 9, 10, 11, and all those not pictured in the exhibit. He thinks for the redevelopment rights, leasing them in pieces loses the luster for the developer. Those are the most suitable for redevelopment and should be designated for the master redevelopment. The Department should keep those good-paying tenants.

Chair Aila suggested that the motion be amended to allow the Chair to figure out what that configuration is with the help of Commissioner Ka`upu to maximize the revenue stream. Commissioner Ka`upu stated with the help of all the Commissioners.

**Public Testifier:** Jarrett Watumull, was introduced by Chair Aila.

Commissioner Ka`upu asked if there was a reporting requirement on their lease to report their tenant lineup or revenue to the Department. J. Watumull stated he does not believe there is a requirement to provide that information. He stated he could look into it more to determine how many of his sublessees are beneficiaries. He stated that one of the sublessees is a Kamehameha School graduate and a beneficiary.

Chair Aila reminded the Commissioners that all lessees were handed to the Department with the land exchange. The Department is supposed to honor the lease, which is the condition we find ourselves with requesting an extension.

Commissioner Ka`upu asked J. Watumull what he thinks of his suggestion for those parcel blocks being suitable for redevelopment as one integrated commercial/industrial center. J. Watumull stated with the current lack of industrial land businesses on the island, he does not think it would make sense to try to move the use out of industrial. The real issue is until the fish stop swimming into the driveway when the water levels are up. He does not see any real investment in the area until that problem is solved. He stated his tenants deal with it because they have been there for generations and understand what it is.

Commissioner Ka`upu asked K. Albinio about the redevelopment, the proposal is that the developer address some of the issues regarding drainage. K. Albinio confirmed.

J. Masagatani asked for clarification on how he wanted to amend the motion. It can be discussed on break. Chair Aila stated the Commission could work on the wording and come back after lunch.

MOTION

Moved by Commissioner Neves, seconded by Commissioner Helm 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 12:16 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. Motion carried unanimously.

1. Update on issues related to Telecommunications and Broadband services on Hawaiian Home Lands

**EXECUTIVE SESSION OUT 1:30 PM**

Chair Aila stated the Commission came up with an amendment to the recommended motion to remove Section B and replace it to give the Department the flexibility to handle the various situations that exist there now.

MOTION TO AMEND

Moved by Commissioner Neves, seconded by Commissioner Ka`upu to amend the motion to remove the language in Section B and replace it with the following language: *Chairman of the Hawaiian Homes Commission is authorized to not extend one or more general leases identified in Exhibit A if the benefit to the trust from the redevelopment of the leased parcel or parcels outweigh the benefit of the existing lease.*

ACTION TO AMEND

Moved by Commissioner Neves, seconded by Commissioner Ka`upu to approve the amended language.						
Commissioner	1	2	`AE (YES)	A`OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm			X			
Commissioner Kaleikini			X			
Commissioner Ka`upu		X	X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			8			
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.						

AMENDED MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Ka`upu to approve the main motion as amended.						
Commissioner	1	2	`AE (YES)	A`OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm			X			
Commissioner Kaleikini			X			
Commissioner Ka`upu		X	X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			8			
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.						

J. Masagatani asked for clarification if the Commission is removing the authorization to go out for a Request for Proposal. She believed it to be two separate things: the authorization to go out and seek a master developer, use budgeted funds, and retain legal counsel. She thinks if it is added as a fifth condition is not a problem, but removing all of those conditions would be problematic for the Department operationally.

Commissioner Ka`upu suggested a Section C. Chair Aila stated the Commission has to amend the motion again. Commissioner Ka`upu checked with J. Masagatani if that would work. She stated that would work fine. Commissioner Ka`upu amended his motion as stated.

Chair Aila stated rather than removing Section B, Section B will remain, and the new language becomes Section C.

MOTION/ACTION TO AMEND #2

Moved by Commissioner Neves, seconded by Commissioner Ka`upu, to keep the language in Section B as stated in the submittal and add a Section C with the new language.						
Commissioner	1	2	`AE (YES)	A`OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm			X			
Commissioner Kaleikini			X			
Commissioner Ka`upu		X	X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			8			
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.						

**ACTION ON MAIN MOTION AS AMENDED #2**

Moved by Commissioner Neves, seconded by Commissioner Ka`upu to approve the amendment to keep the language in Section B as stated in the submittal and add a Section C with the new language.						
Commissioner	1	2	`AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm			X			
Commissioner Kaleikini			X			
Commissioner Ka`upu		X	X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Commissioner Teruya			X			
Chairman Aila			X			
<b>TOTAL VOTE COUNT</b>			<b>8</b>			
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.						

**ITEM F-4 Approval to Issue Right-of-Entry Permit to the State of Hawai`i, Department of Land and Natural Resources, Waiohuli, Maui Island, TMK: (2) 2-2-002:014 and designated safety zones**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve to Issue Right-of-Entry Permit to the State of Hawai`i, Department of Land and Natural Resources, Waiohuli, Maui Island, TMK: (2) 2-2-002:014 and designated safety zones

MOTION

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

DISCUSSION

Land Agent Shelly Carreira stated DLNR has begun dialog with DHHL for a wildlife control program of management and control of the excess deer population on DHHL land in Waiohuli. They are looking at a hunting program administered by DLNR. The drafted Memorandum of Understanding (MOU) is attached to the submittal and is subject to further review.

Chair Aila stated there are two things in the submittal, a Right-of-Entry and a Memorandum of Understanding (MOU). The agreement for the project in the MOU is effective according to the commencement date, for up to one year, and is tied to the Governor's Emergency Proclamation. He asked the Commission that they give him the authority to amend the drafted MOU so that it is consistent, to make it twelve months after the effective date and not tied to the emergency proclamation.

Chair Aila stated that DHHL does not have the authority to authorize the hunting of deer. The Department is seeking in the ROE and MOU to partner with DLNR and give them the authority to institute a deer reduction program on DHHL lands.



L. DeSilva estimated a deer population of about 7,000 in the central valley. DOFAW is part of a task force to address reducing Maui's deer population. Doing work from the helicopter, he has seen herds up to 800 heads. In the middle of the core area are the Waiohuli/Kēōkea Hawaiian homelands, which are about 4,000-5,000 acres. These areas are surrounded by ranch properties that have a high deer population, and they have their efforts to reduce the deer population. They are proposing to use a mechanism to reduce the deer population.

J. Medeiros and L. DeSilva stated the plan is island-wide, and they are working with landowners with significant numbers of deer on their property. They're employing all control methods, such as trapping, public hunting, and fencing. Private owners have put up fencing to break the migration of herds from one part of central Maui to the northern part of central Maui.

Chair Aila clarified that beneficiaries living on Maui have the first opportunity to make reservations, and after that, it would be open to other beneficiaries and non-beneficiaries.

L. DeSilva stated to make a dent in the population, they would have to reduce the number by 30% or more. That is why they have the help of the other landowners because anything lower than 30% is just stabilizing. J. Medeiros stated the adjacent landowners are also given other tools such as wildlife permits, and game harvest permits where they can process the deer. L. DeSilva stated they would have two check stations for people to check in and out and report what they catch. Based on the numbers, they can monitor if it is effective or not.

Commissioner Helm stated they do have the same deer problem on Moloka'i. He asked if they have an organization that removes deer as a business, and if there is, would they do that in the central area being discussed. J. Medeiros stated no because this is not going to be commercially run. Some individuals do for private ranches, and they are on Moloka'i as well.

**ACTION**

Moved by Commissioner Neves, seconded by Commissioner Awo, to approve the motion as stated in the submittal.						
Commissioner	1	2	ʻAE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo		X	X			
Commissioner Helm			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Commissioner Teruya			X			
Chairman Aila			X			
<b>TOTAL VOTE COUNT</b>			<b>8</b>			
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.						

**ITEM F-5 Approval to Issue Right-of-Entry Permit to Moloka'i Hunting Club, Ho'olehua, Moloka'i Island, TMKs: (2) 5-2-002: 029, 053, 054; (2) 5-2-005:019; (2) 5-2-011:004**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio and Land Agent Shelley Carreira presented the following:  
 Motion that the Hawaiian Homes Commission approve to Issue Right-of-Entry Permit to Moloka`i Hunting Club, Ho`olehua, Moloka`i Island, TMKs: (2) 5-2-002: 029, 053, 054; (2) 5-2-005:019; (2) 5-2-011:004

K. Albinio stated one of the Department’s ROE tenants, the Moloka`i Wildlife Management, Inc. sent an email in opposition to Item F-5 for the record.

S. Carreira stated the Moloka`i Hunting Club presented to the Commission on April 19 and July 20 of 2021 and was approved the Right-of-Entry to access various DHHL land parcels to reduce the axis deer herds and cull out the sick. Their last permit expired on September 30, 2021. They have received additional funding for population control of axis deer on Moloka`i.

Marina Lafaele is the Secretary for the Moloka`i Hunting Club and reported that they removed 544 deer provided 19,350 pounds of free deer meat to the Moloka`i community, which amounted to about 1,000 households.

**DISCUSSION**

Commissioner Helm stated it is a win-win situation and supports this ROE.

Chair Aila stated he thinks Mr. Manaba processes deer commercially. He does not think he is processing significant pounds of meat for human consumption but dog food and other markets he is trying to build. To sell deer meat, you must process it within an hour, and it has to be a head shot, and a USDA Veterinarian has to be present. The meat that the Moloka`i Hunting Club is getting is not for sale. They process, refrigerate in good time, and when they have enough, they do a call out, and homesteaders show up to get their choice of meat. They also grind it into hamburger.

**MOTION/ACTION**

Moved by Commissioner Helm, 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			
Commissioner Helm	X		X			
Commissioner Kaleikini			X			
Commissioner Ka`upu			X			
Commissioner Namu`o			X			
Commissioner Neves		X	X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			8			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Eight (8) Yes votes.						

**ITEMS FOR INFORMATION/DISCUSSION**

**WORKSHOPS**

## PLANNING OFFICE

### **ITEM G-4 For Information Only – Kukulū Kumuhana O Anahola: Ulupono Anahola Draft Environmental Assessment TMK: (4) 4-8-003:019 (por.), Anahola Moku O Koolau, Kauaʻi**

#### RECOMMENDED MOTION/ACTION

None. For Information Only. Planning Manager Andrew Choy and Planner Nancy McPherson presented the following:

Rae Nam of KKOAA and Kawika McKeague of Group 70, offered a slide presentation.

Ulupono Anahola – An Agricultural Community Garden and Youth Center

- KOA Mission and Vision – We are compelled and committed to providing safe places and spaces to deter suicide by building life skills to strengthen their identity through Hawaiian values, empowering individuals to successfully manage their future, and establishing a healthy, sustainable, and thriving Hawaiian community.
- Community Benefits
  - Rehabilitation of a 10-acre parcel
  - A safe educational/agricultural training site for students, beneficiaries, and the community
  - A safe place with opportunities to build life skills and economic development
  - Provide opportunities to build self-identity through cultural values
- Project Components – Marae, Hale Halawai, Youth Center, Kitchen, Processing Area, Co-op Space, Community Gardens, Mala Laʻau Lapaʻau
- Technical Studies are done – biological assessment, noise assessment report, transportation impact analysis, cultural impact assessment, archaeological literature review, and field inspection
- Next steps
  - File DEA to ERP – August 2022
  - 30-Day Public Comment Period – September-October 2022
  - Revise DEA into FEA-FONSI – October 2022
  - Present to Hawaiian Homes Commission – November 2022
  - File FEA-FONSI – December 2022

#### DISCUSSION

Commissioner Neves asked about the water and what is the holdup. R. Nam stated they gave everything that the Department of Water (DOW) needs and are just waiting.

N. McPherson let Chair Aila know they have a letter for him to sign to submit the Draft Environmental Assessment.

## GENERAL AGENDA

### OFFICE OF THE CHAIRMAN

**ITEM C-3 For Information Only – Summary of Responses to Proposed Legislative Action Request for 2022 & Draft Legislative Proposals**

RECOMMENDED MOTION/ACTION

None. For Information Only. NAHASDA Government Relations Specialist Oriana Leao presented the following:

After reviewing the legislative packages, ten drafts were packaged and presented to the Commission. They received 30 proposals, and 29 are in the Commission packet, and one was received later, recorded, and found to be more appropriate for the sufficient sums request and did not require legislative action. She read all 10 to the Commissioner as stated in the submittal.

Proposal #5 relating to interim rules requires beneficiary consultation and a Chapter 91 process. If this bill passes, it will allow the Department to bypass the Chapter 91 process only if the interim rules are affective for not more than 18 months. Chair Aila asked if this would allow the Department to go into rule-making quicker, correct? O. Leao stated correctly.

Proposal #10 relates to Act 279.

DISCUSSION

Commissioner Awo thanked them for keeping the enforcement and compliance proposal on the front burner. Regarding amending the Hawaiian Homes Commission Act, he hopes the Department can make a statutory change because it will get the Department to its end goal quicker. There is one proposal he does not support because, in Chapters 199-4, the Board of Land and Natural Resources (BLNR) is granted full police powers. He would like to see the Hawaiian Homes Commission granted full police powers.

Regarding independent counsel, when we talk about the Department, it also includes the Commission. Sometimes the interests of the State conflict with the interests of the beneficiaries. L. Kinilau-Cano stated the Legislation had been in since 1999. The Legislature is primarily opposed because the Attorney General's office opposes it. DHHL would be the only principal department in the State of Hawai'i with separate independent counsel. It is up to this Commission if the preference is the Commission and not the Department. The basis is that the Department includes the Commission.

Commissioner Ka'upu asked how the Office of Hawaiian Affairs justifies its independent counsel? L. Kinilau-Cano stated that the Office of Hawaiian Affairs is a quasi-state agency, so they have an independent counsel. They are not a principal department in the state, something like the University of Hawai'i.

Commissioner Awo stated if the language has been so since 1999, it is time to reconstruct. He does not agree with the AG's office. The Commission's mission is unique.

**HOMESTEAD SERVICES DIVISION**

**ITEM D-1 HSD Status Reports**

- A. Homestead Lease and Application Totals and Monthly Activity Reports
- B. Delinquency Reports

Homestead Services Division Administrator Juan Garcia presented the following:

DISCUSSION

Commissioner Ka`upu asked J. Garcia if there was any spike he would bring to the attention of the Commission. J.Garcia stated he would bring it to the Commission's attention.

**WORKSHOPS**

**LAND DEVELOPMENT DIVISION**

**ITEM E-1 For Information Only – Status Report on the US Department of Agriculture Rural Development Loan/Grant Financing for the DHHL-owned Anahola Farm Lots Water System, Public Water System No. 432, on the Island of Kaua`i**

RECOMMENDED MOTION/ACTION

None. For Information Only. Acting Land Development Division Administrator Stewart Matsunaga presented the following:

S. Matsunaga clarified that No. 7 for the USDA loan is not yet closed and still being worked on. DHHL extended the \$4.1 million with the DHHL Trust fund. DHHL is now drawing grant funds, and LDD has requested \$2 million of the USDA funding. The USDA funds expire at the end of 2022. He stated the water tank will be constructed on time and completed on schedule and within budget.

DISCUSSION

Commissioner Awo asked if there were any projects in the pipe for Waimanalo. S. Matsunaga stated there is a land exchange with the Wong Farm, which could be both agricultural and pastoral. That will be 3-years plus.

**ITEM E-2 For Information Only – Kaua`i Project Updates**

RECOMMENDED MOTION/ACTION

None. For Information Only. Acting Land Development Division Administrator Stewart Matsunaga presented the following:

S. Matsunaga presented a PowerPoint which will also be presented at the community meeting tonight. Smart meters are installed. The water tank is not 100% completed, but it is functional, providing water to the residents. Work is being continued on the Anahola Dam and Reservoir.

Note: Slide presentation attached.

**PLANNING OFFICE**

Note: Item G-5 be deferred to next month as the lead staff on the item is not well.

**ITEM G-1 For Information Only – Status Update on Plan Implementation, Island of Kaua`i**

RECOMMENDED MOTION/ACTION

None. For Information Only. Acting Planning Manager Andrew Choy introduced Liaison for the Kaua'i Nancy McPherson, who presented the following:

N. McPherson presented the PowerPoint slides for the status update on the Plan Implementation.

- Kaua'i Island Plan adopted in 2004
- Planning areas are Waimea, Kekaha, Hanapepe, Wailua, Kapa'a, Anahola/Kamalomalo'o, Moloa'a

DISCUSSION

Commissioner Neves commented on the number of new groups and organizations branching out. He sees the community getting involved.

Note: Slide presentation attached.

**ITEM G-2 For Information Only – Update on Kaua'i Water Projects and Issues**

RECOMMENDED MOTION/ACTION

None. For Information Only. Acting Planning Manager Andrew Choy presented the following:

Dr. Jonathan Scheuer presented the slide update on the Kaua'i Water Projects and Issues. He highlighted the key changes in the last 12 months with water issues.

Water Projects and Issues

- Wailua Well, No. 1
- Wailua River Licensing
  - KIUC continues to seek a new lease for water for their Waiahi Power Plant
  - HHC/DHHL/Beneficiaries have impacted rights – Reservations, 30% of license revenue, T&C uses
  - October 16, 2018: DHHL awarded .513 mgd reservation – Means to deliver water undetermined
  - CCH on IIFS is still pending (petition granted March 19, 2019)
  - Litigation ongoing
- Moloa'a Opportunities
  - Moloa'a – 316 acres undeveloped; 47 three-acre homesteads; 86 acres general ag
  - Potable & non-potable needs
  - State well nearby – Currently on an RP; being converted to a GL; HRS 171-58(g) reservations are needed
  - The landowner has reached out
- Waimea river Settlement Implementation Updates
  - 2017 – 2021: Continued efforts to implement settlement – progress slower than all anticipated
  - Progress has been made on the KIUC design of the proposed “West Kaua'i Energy Project.”
  - August 10, 2020: FEA for Puu Opai Settlement Plan Approved
  - 2022: - Training with Ka Huli Ao; Mediation renewal

DISCUSSION

None.

Note: Slide presentation attached.

### **ITEM G-3 For Information Only – Briefing on Proposed Processes for the Allocation of Water Credits and Water Meters on Potable Water Systems**

#### RECOMMENDED MOTION/ACTION

None. For Information Only. Acting Planning Manager Andrew Choy presented the following:

Dr. Jonathan Scheuer presented Item G-3, Briefing on Proposed Processes for the Allocation of Water Credits and Water Meters on Potable Water Systems

Water Meter and Credit Management

#### Background

- Water Reservations are commitments from CWRM to withhold water sources from other users in DHHL’s favor. Kapu water for DHHL use
- Water Credits (on non-DHHL water systems) and the ability to issue Water Meters (on DHHL water systems) are critical trust assets that allow DHHL to develop homesteading opportunities for beneficiaries
- What is a Water Credit?
  - Issued by the Counties or private entities to DHHL or others
  - Issued in exchange for source, storage, transmission, or other consideration
  - One credit – a future residential 5/8” meter, assumed to deliver 600 gpd
  - The current Department holds credits from Maui (upcountry), West Maui, Kaua’i (Anahola)
- What is a DHHL Water Meter? In the promise of credit, what is the promise of a future water meter?
  - DHHL owns four water systems (Moloka’i, Anahola, Pu`ukapu, Kailapa)
  - DHHL has limited ability to issue new meters for homestead and non-homestead uses
  - A future residential 5/8” meter is assumed to deliver 600 gpd

#### Draft Procedures

- Prioritizations & Workflow
- Priorities – when resources are scarce
- Workflow – reliable and consistent management
- Areas where the Department has invested in infrastructure development for residential use on homestead lots but development, is incomplete

#### Prioritization Policy

- Residential use on awarded residential homestead lots
- Residential use on awarded residential agricultural or pastoral lots
- Areas where the Department has invested in infrastructure development for residential use on homestead lots but development, is incomplete
- Lots eligible for subdivision for residential use, regardless of being agricultural, pastoral, or residential lots
- Agricultural or pastoral use on agricultural or pastoral lots
- Uses by a Homesteader Organization on a property interest issued by the Department
- The ancillary community uses that are identified in Island or Regional Plans or other HHC land use designation actions
- Commercial and other non-homestead, non-community uses in the area on Department lands

#### Two possible exempts

- State of Emergency

- Lower uses when higher uses will not occur in the next four years, with a recommendation by Chair and approval by HHC

Workflow

- Planning Office, District Offices, HSD, LDD, Chairman’s Office, and HHC all have roles
- Maintain data, Request, Review, and Analysis, Recommendation to Chairman, Approval by HHC if necessary

DISCUSSION

Commissioner Neves stated that \$16,000 for a water meter is too much of a burden for the beneficiaries. Chair Aila stated perhaps it could be included in the cost of the new construction.

Dr. Scheuer stated it is addressed in the policy and the procedures that one’s first homestead lot should get that meter at no cost. That has been the practice. Lower priority uses like private commercial uses would bear the full cost of being issued that meter or obtaining the credit, so the Department is not subsidizing a non-homesteading use.

Commissioner Kaleikini asked if a water meter and a water credit could go hand in hand or can one be by itself. One has to do with DHHL issuing meters on its own system, and the other has to do with DHHL spending a credit so that the county can issue a meter. It is the same issue and the same trust asset. It depends on who is issuing the meter. Commissioner Kaleikini asked how the capacity of a water system is determined. Dr. Scheuer stated it is determined on a combination of how much source is available and how much storage is available, where the water can be transmitted to. The engineers look at average daily and peak fire flow needs.

**ITEM G-5 For Information Only – Draft DHHL Kuleana Homestead Program Procedures and Considerations (Deferred)**

**ITEM G-6 For Information Only – Beneficiary Consultation to Evaluate Modification of Land Use Designations and Amend O`ahu Island Plan as necessary in Support of the Re-Use of the Existing Building Located at 91-1071 Yorktown Street, Kalaeloa, moku of `Ewa, Ahupua`a of Honouliuli, Island of O`ahu TMK (1) 9-1-013:024 (por.)**

RECOMMENDED MOTION/ACTION

None. For Information Only. Planning Manager Andrew Choy presented the following:

A. Choy introduced Malia Cox and Lehua Kinilau-Cano of the NAHASDA team.

M. Cox stated the proposed idea for this parcel is to provide beneficiaries that are conditioning out of homelessness with support facilities. DHHL did not provide this assistance in the past as there was no facility to provide the services. The idea is to rehabilitate an existing building and convert the 18-20 studio units into 18 transitional housing for homeless native Hawaiian applicants. The two additional units would be for support service facilities.

This is an industrial area, and they are starting to evaluate modifying that land use designation. The General Plan is being updated, and that update will inform the meetings the Planning Office will have with the beneficiaries. In the 2022 native Hawaiian Housing Plan, one of the targets was providing housing needs for homeless households.

The first environmental reviews are anticipated to be completed in September. Next week's first beneficial consultation meeting will help them understand the project and the need to change the land use designation. The hope and goal are to begin design and construction in 2023.



## DISCUSSION

Commissioner Teruya asked when did the plan come about, and if it was requested by someone or an organization, or did it come from the NAHASDA staff. Who is going to monitor that facility when it is constructed? M. Cox stated it has come up in the past with DHHL, and an organization or agency did not request it. It did come up internally. They have been working on a Memorandum of Agreement with Partners in Care. NAHASDA staff has been looking at those who identify as native Hawaiians and made the comparison with the DHHL waitlist and found those who are homeless on the applicant waitlist.

Commissioner Teruya asked who was in the 2-story facility. If they were ROEs and how much is the rent. K. Albinio stated they are ROEs, and he would get back to her on the rent.

Deputy Gomes stated the project came from the City & County of Honolulu who was looking to disperse home funds for various housing projects three years ago. The Department was approached and asked if it was interested in submitting a proposal, and the Department came up with the refurbishment of the Yorktown project. The City was told by their attorneys that because they did not explicitly say that another agency could apply for the funding opportunity. The Department became ineligible for the funds. NAHASDA was deemed as an eligible replacement to fund the project. Supporters in Washington DC wanted the Department to diversify how it was using NAHASDA funds and wanted to see the Department address homelessness in using the funds.

Commissioner Teruya asked what the cost was. M. Cox stated they do not have a cost until they get through the RFP project.

Commissioner Helm asked if NAHASDA was considering doing this on the neighboring islands. L. Kinilau-Cano stated she thinks they are using this to learn, just like the NAHASDA emergency assistance. Once NAHASDA goes through this experience, they can see how to replicate this in other counties.

Chair Aila added that the position of the federal congressional delegation has shifted in the last four or five years to opportunities to help Hawaiians in different spectrums of housing. Their measuring of how effective the Department was, has softened because the Department is willing to consider expansion of housing opportunities for beneficiaries. He thinks if the Department can demonstrate that it can spend the NAHASDA and do more rental subsidies and assistance, money will flow from Washington DC to do that. There are other opportunities to help the beneficiaries, not just take them off the waitlist.

**RECESS**

**4:40 PM**

## **HAWAIIAN HOMES COMMISSION**

Minutes of August 16, 2022

Hilton Garden Inn Kaua`i Wailua Bay, Kuhio Ballroom  
3-5920 Kuhio Highway, Kapaa, Kaua`i, HI 96746  
and Interactive Conferencing Technology (ICT)

**PRESENT** William J. Ailā Jr., Chairman

Randy K. Awo, Maui Commissioner  
Zachary Z. Helm, Moloka'i Commissioner  
Michael L. Kaleikini, East Hawai'i Commissioner  
Russell K. Ka'upu, O'ahu Commissioner  
Pauline N. Namu'o, O'ahu Commissioner (via ICT)  
Dennis L. Neves, Kauai Commissioner  
Patricia A. Teruya, O'ahu Commissioner  
Vacant Seat, West Hawai'i Commissioner

**COUNSEL** Katie L. Lambert, Deputy Attorney General

**STAFF** Tyler I. Gomes, Deputy to the Chairman  
Leah Burrows-Nuuanu, Secretary to the Commission  
Andrew Choy, 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  
Michael Lowe, Information Specialist

## **ORDER OF BUSINESS**

### **CALL TO ORDER**

Chair Ailā called the meeting to order at 10:23 a.m. eight (8) members were present at the roll call; three (3) via ICT.

Pursuant to Act 220, Commissioners, Awo, Kaleikini, Ka'upu, and Neves were present. Commissioners Helm, Namu'o, and Teruya were on via ICT. Cameras must be kept on. The Board shall be visible and audible to members and the public. No other participants are required to be visible during the meeting.

Chair Aila stated Items D-10, C-4, and C-5 were carried over from yesterday's meeting. For Item D-10, Mr. Rudolph King will call in at 10:30 a.m. from the mainland to share his decision.

## **PUBLIC TESTIMONY ON AGENDIZED ITEMS**

Public testimony on any item relevant to this agenda may be taken, or a testifier may wait to testify when the agenda item is called for discussion. Pursuant to section 92-3, Hawai'i Revised Statutes, and section 10-2-11(c), Hawai'i Administrative Rules, the Chair of the Commission has the authority to impose reasonable conditions to ensure an orderly and efficient meeting.

### **PT-1 Germaine Meyers – Items C-4, C-5, and C-6**

G. Meyers testified on Items C-4, and C-5 carried over from yesterday's meeting. She stated there were four discussion paragraphs for Item C-4, and exhibit A was not included in the file. She stated Item C-5 provided two pages of repetitive discussion. She stated Item C-5 lacked detail and clarity. Her concern was, is someone getting paid off with the \$60 million? She talked of Item C-6 and all the Hawaiian Homes Commission Minutes that were not posted since 2013.

Chair Aila stated all the Minutes that Germaine spoke of are on the website. Since his appointment the Minutes are in draft form and can be seen online on the DHHL website. None of the Commissioners now were around in 2017 and 2018, so the Commission is trying to deal with that issue, and it will get done.

He made a point of stating that he did not say that the Commission would not have a workshop but left it up to the Commissioners to decide whether or not to bring it forward to the table today (Items C-4 & C-5). Further, the Commission never talked about a workshop but did talk about a special meeting. He wanted the record clear on this before moving on.

## **ITEMS FOR DECISION MAKING**

### **CONSENT AGENDA**

#### **HOMESTEAD SERVICES DIVISION**

##### **ITEM D-10 Rescission of Homestead Lease Award and Reinstatement of Application, Undivided Interest**

###### **TESTIMONY OF RUDOLPH KING via audio telecommunication – 10: 40 AM**

Chair Aila stated that Mr. Rudolph King wanted to speak today and not defer this matter to next month. Commissioners were concerned about the decision Mr. King was contemplating.

Homestead Services Division Administrator Juan Garcia stated that Mr. King requested the Department rescind his Waimanalo Undivided Interest Lease No. 11250. He received the Lease effective September 16, 2006, for Kaikaina in Waimanalo. The lots that were available in that subdivision were all awarded to beneficiaries. He wants to be removed from the Undivided Interest list and return to his application date of February 17, 1972, on the waitlist.

Chair Aila asked Mr. King if he understood of the options and impacts of his decision to go back on the waitlist, or whether hanging on to it, waiting, or transferring it. Mr. King stated his understanding before he got into this undivided list, is he would still be on the Waimanalo area list, but he found out that was not true. He would have never chosen to do this if he had known this initially. He wants to be returned to the Waimanalo waitlist.

Chair Aila stated the Commission needed to feel that the Department provided you with an explanation of consequences if you chose one way or the other. Mr. King stated that if he knew that he would be taken off the Waimanalo list, he would never have made that decision to accept the UI. He asked again if he was making any sense.

Chair Aila stated. Unfortunately, the undivided interest program pre-dates all of us here, so he cannot speak for how it was communicated to Mr. King in the past.

Mr. King stated he understands that; he understands that was long ago. He stated it was his bad for not researching and for not finding out that he was going to be taken off the Waimanalo area list.

Commissioner Awo thanked Mr. King and stated he just wanted to make sure that this was, in fact, in his best interest. The reason is that an undivided lease is, in fact, the lease that you have in

your possession that affords you certain privileges and opportunities. He wanted to make sure, before you relinquish those privileges, that it is, in fact, the right choice.

The reason he asked is in speaking with Stewart yesterday, and it is possible that with the \$600 million, there is a project that may be developed within three years that will create 100 new homes. If that is, in fact, a possibility, and this lease, as indicated on this submission, is for Waimanalo, within three years, Mr. King may be able to use the lease he currently has to qualify for one of those homes.

Chair Aila asked if the undivided interest was for Waimanalo as whole or specific areas such as Kumuhau or Kaikaina. P. Aila stated it is just for the Kaikaina project of 45 lots. He has an undivided interest in Kaikaina, and secondarily, he is on the area waitlist for all of Waimanalo. If he foregoes the undivided interest, which he could transfer, he would be placed on the applicant list island-wide for O`ahu. When the Department does an offering in Kapolei, for example, depending on the number of lots, he would be on the island-wide list, and the Department would go to the area, as he is an area wait lister, that would take precedence over the island-wide waitlist. That would be the trade-off. As an undivided interest lessee, he could transfer that undivided interest lease today. He does have successors listed, so that is one path he could take, transferring the undivided interest lease to a qualified, eligible person. His opportunities for Kaikaina are foregone because the Department has others on the backup list if someone falls out. He returns to the area list, which is part of the island-wide list.

Chair Aila asked Mr. King if he had heard the conversation, not that he fully understood, but he realized again that the farm lot is different from the Waimanalo lot. He asked if he understood that. P. Aila answered Mr. King, stating he is holding an undivided interest lease for a residential only. It is not for a farm lot in Kaikaina. He asked where Kaikaina was. P. Aila stated that Kaikaina is right past the egg farm. He responded ok, but he was always interested in the ones behind Huli Street. P. Aila told him he has two opportunities; one is the lease he is holding, which is very specific to Kaikaina. If you were to rescind your undivided interest lease for Kaikaina, you would go back to the area list for all of the Waimanalo areas, but the Department does not have any lots soon. She wants him to understand that there are no residential lots. He wanted to know how long, ten years, 15 years?

Commissioner Awo stated that 3-4 years is what he thinks he heard when he spoke to Stewart. P. Aila stated it depends on the number of lots being offered. J. Garcia stated there is roughly a 500 area list for Waimanalo and Mr. King is 198. P. Aila stated that would determine if Mr. King would even receive an offering. Mr. King stated out of 500, and he is 198, he might not get an offer. He asked if that was what he had heard. P. Aila stated yes because it depends on the number of lots.

Chair Aila asked that Mr. King listen carefully because he wanted to make it very clear to him. Mr. King stated he understood and asked if the Commission understood him. One hundred ninety-nine (199) is not a bad place, but the Department does not know if it will have 300 lots.

Commissioner Awo will honor Mr. King’s decision.

**MOTION/ACTION**

Moved by Commissioner Neves, seconded by Commissioner Kaleikini, 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 Kaleikini			X			
Commissioner Ka`upu		X	X			
Commissioner Namu`o			X			
Commissioner Neves			X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			8			
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.						

**PUBLIC TESTIMONY ON AGENDIZED ITEMS**

**PT-2 Blossom Feiteira – Items C-4 & C-5**

B. Feiteira stated it was not her intention to find fault in the staff and the Commission and apologized. She read the submittal and appreciated the recognition given to beneficiaries needing the time to prepare for future offerings coming off the pike. She thinks the budget looks good, and Rodney Lau presents a document that is factual and to the point. There is a need for the Department to assist the non-profit organization that delivers services to the community in terms of making contact with the beneficiaries on the waitlist. The non-profits cannot contact the beneficiaries to assist them with their services.

Commissioner Ka`upu stated he was not personally offended. It is your kuleana to question the process and decisions.

Chair Aila stated he was personally offended by a comment that was made earlier. He thinks that the Department and the Commission operate at a very high level of transparency, so the accusation of the \$60 million being pre-spoken for was nothing closer to the truth, and it is a dis-service to all employees who work hard on behalf of the Commissioners.

**PT-3 Ainaaloha Ioane – Item C-4**

A. Ioane testified the King’s Landing beneficiaries have been advocating for leases and have presented programmatic ideas to address the waitlist. Suppose King’s Landing is given the priority status for the next three years and allocated funding from Act 279. In that case, kuleana homesteading could be realized within those three years, and she hopes that is a timeframe for the kupuna at King’s Landing to see. It is something the kupuna deserve to be a part of. People are removed from their aina because King’s Landing does not allow successorship. If homesteading in King’s Landing does not happen before the kupuna calls up her father, then she will not be able to succeed the aina because she will not be eligible to become a lessee. She will be removed from her one hanau. She asked that the Commission amend the recommendations to add King’s Landing to the preliminary listing of new homestead lots development projects for Hawai`i County so they may benefit from Act 279.

**PT-4 Patti-Tancayo-Barbie – Item that was removed from the agenda.**

P. Tancayo-Barbie testified that she is a beneficiary who was raised on a Moloka`i homestead. The catalyst for her interest in housing was from seeing over-crowdedness and the haves and have-nots with a focus on Hawaiians. For the past 30 years, she has implemented different programs such as self-help housing projects and Habitat for Humanity programs that built single-family and multi-family homes in mid-rises. She is currently the Sr. Vice-President for the Hawaiian Community Development Community Board, in which most Board members are lessees and beneficiaries. Regarding the \$600 million, she believes the Commission can take that \$600 million and leverage it into billions. She asks that the Commission put the industrial park of the proposal presented to the Commission last year on the agenda for action next month because they are ready to go and their investors are in place. With the approval of the action, Hawaiian Community Development Board will meet the primary goal of the Hawaiian Home Land Act Section 1, Self-determination. No other developer will always put the interests of the beneficiaries first. The proposal will allow them to go into the various communities, provide technical assistance and help them build and rebuild their homesteads.

Chair Aila stated that the item was deferred because Kali asked him to. Item F-7 had to be heard first, so Kali decided to defer.

Commissioner Teruya asked if an archaeological survey was done for iwi. P. Tancayo-stated they did, and they did discover iwi, which is why she thinks that Hawaiian Community Development Board should be the developer. Commissioner Teruya stated she is looking forward to her presentation when the item is put on the agenda and for further updates on the new project.

**PT-5 Rae Nam –**

R. Nam testified that they want to change their ROE 703 to a short-term lease for fixing the hale that is located on the mauka side of the property. They use the site for propagation while they wait for the water and buildings to be put up at the makai site for the Ulupono Anahola project. They want to shift from an ROE to a lease because they have a stronger case if they have a lease on the land to get additional funds from grantors.

Chair Aila asked her if the funders she was talking to define short-term that would make them feel comfortable. She stated she believes letting them know it would be for 5-years would be sufficient.

Commissioner Neves stated she has an ROE for the 10-acre parcel, and the whole concept was to use that ROE to do the propagation and move to that location once you got water so you could move your plants down and so on. He stated he has concerns about doing a 5-year lease. That area was set up for the farmers, and it got overcrowded. These grant programs through Hawaiian Homes will pay for this. R. Nam stated they are open if it is a shorter lease as they feel they can get more leverage.

Chair Aila cautioned the Commissioners not to be pre-decisional.

**ITEMS FOR DECISION MAKING**

## REGULAR AGENDA

### OFFICE OF THE CHAIRMAN

#### ITEM C-4 Approval of Act 279 Permitted Interaction Group Recommendations

##### RECOMMENDED MOTION/ACTION

Executive Assistant Jobie Masagatani presented the following:

Motion that the Hawaiian Homes Commission accept and approve the preliminary strategic approach to implement Act 279 of 2022; and authorize the Chairman to begin implementing such plan.

Chair Aila reiterated yesterday that it is up to the Commissioners. Staff is making a recommendation, he had one vote to have a discussion, and the Commission has heard public testimony both for and against, at this point. He stated there was a motion on the table, but he opened it up for more discussion.

Commissioner Teruya asked for the motion to be repeated. J. Masagatani repeated the motion, and Chair Aila emphasized the word “preliminary.”

**Public Testimony** - Blossom Feiteira stated that except for the beneficiary activities, the plan is still light and had difficulty connecting the budget to the plan. There is not enough detail in the strategic approach. She does think the Commission should have more time to deliberate and ask questions.

Chair Aila stated this plan would morph and change, and there will be lots to discuss. There will be more discussions on the \$60 million, and there are financial things in the budget and the preliminary strategic plan that is important to start. Commissioner Kaleikini supports the flexibility and preliminary report.

A. Choy stated the preliminary approach's important elements are on pages 3 and 4 of Exhibit A. He read out the policy considerations to the Commission. It is the policy considerations for the Commission’s hopeful approval but gets their feedback on the policy decisions this body will make on how the allocation of this tremendous amount is made.

Commissioner Teruya stated she supported having a special meeting because the Commissioners not on the Permitted Interactive Group committee did not have the time for a deep dive and discussion on the preliminary strategic plan. She does not feel comfortable today about supporting the plan as she has a lot of questions.

Commissioner Awo stated that none of the Commissioners agree with any insinuations that the DHHL staff or Commissioners are acting inappropriately to deliver this package. Even if the proposal is subject to change, beneficiaries expect the Commission to give adequate time to review it before voting. He thinks it is fair, and anything less than that is irresponsible. He does not support the Commission trying to fast-track a decision today.

Commissioner Helm stated he does not support making a decision now.

Chair Aila deferred Item C-4 and Item C-5 to a special meeting.

**RECESS**  
**RECONVENED**

**12:10 PM**  
**12:28 PM**

Chair Aila apologized to the audience and the Commissioners that due to the many items on the agenda, the Commissioners will be having their lunch while they continue their business.

## **ITEMS FOR INFORMATION/DISCUSSION**

### **GENERAL AGENDA**

#### **REQUEST TO ADDRESS THE COMMISSION**

##### **ITEM J-1 Harold Vidinha – Kekaha Hawaiian Homestead Association**

H. Vidinha stated he is the President of the Kekaha Hawaiian Homestead Association on Kaua`i. He got involved with a project dear to him and introduced John Mattos, who spearheaded the project. The project will be under the umbrella of the Kekaha Hawaiian Homestead Association (KHHA). He also introduces Jackie Kaina, Assistant Director of Kaua`i Economic Development Board, and Stephanie Aiona with the Kekaha Agricultural Group.

Note: slide presentation attached

Chair Aila asked if Young Brothers were willing to ship back empty containers, not half full of cattle. Is that correct? J. Kaina stated that they were not going to ship half containers at the time, so the ranchers had to hui together to have a full container. Chair Aila stated Young Brothers would ship back the empty containers if they did not get a full container. Regarding the Koke`e ditch restoration, the Department has an agreement with Kaua`i Island Utility Corporation (KIUC), so the Department has to learn more about that issue.

S. Aiona stated that KIUC is a concern for all. The Kekaha Agricultural Association is the managing company for the Agricultural Development Corporation (ADC), which manages 12,500 acres of land in Kekaha. The roads, the water, the ditches, and basic security and maintenance are under their jurisdiction as the managing partner of ADC.

She stated that eight years ago, the farmers, the hospitals, and others were called to a meeting in Hanapepe by Governor Ige. The Governor asked them to focus on food sustainability which she stated was a big ask. They all got together to see how they could make that happen. Senator Koichi made it clear that they had to grow sustainable farm products. They grew whatever they could, and when Covid hit, they were the ability to step up along with others to feed the community. ADC does not permit pastoral, so they do not allow animals on the land. They called on DHHL and spoke with Kaipo Duncan.

They worked with KIUC on the water issue. In the recent Legislative session, they acquired \$3.5 million to complete the ditch renovations and upgrades and another half million for the Menehune ditch. She asked if they could help the Department if they opened up a ditch that had not been in operation. She stated that ADC is suggesting that they help the Department with that water. How can they come to the Department with a plan to provide a good sustainable cattle operation? The last segment is to have the first Agricultural Innovation Center for youth and people to learn everything there is to know about agriculture.



Chair Aila asked if there was a written proposal. H. Vidinha stated she sent it in. Chair Aila asked that they stick around for Item F-6, a Revocable Permit Pilot Program presentation.

**ITEM J-2 Blossom Feiteira – Various Concerns**

B. Feiteira asked if she would like a status update on King’s Landing. Regarding the undivided interests, a handful of the undivided lessees from the Piilani Mai Ke Kai offering contacted her. They did not take an offered lot due to financial reasons. The lessees are assigned to a specific area. Suppose the lots are assigned to undivided interests and those on the waitlist. In that case, there may be leftover undivided lot lessees because the assignment of the area will no longer be available for them. She asked that the Commission thinks about how to resolve that challenge. She stated she met Chair Aila in Kahikinui when he was still the Deputy, and they talked about canceling the leases in Kahikinui and initiating the award of those vacant lots. There were about 30 lots at the time, and it is going on for four years. She knows the lots are being prepared and are ready to be awarded, so she asked if he could give her an idea of when. She is hopeful to see the lots awarded by the end of Chair Aila’s term.

**ITEM J-3 Robin Kealiinohomoku – Cancelled Lease Application**

R. Kealiinohomoku stated she received a cancellation letter from the Department dated May 17, 2022, regarding her Uncle, her Dad’s brother, and the late Thomas Kamuela Kealiinohomoku’s lease application. Unfortunately, he lived and worked in New York City and died in May 1982. He had no named successors, and his one daughter passed away. Recently he was No. 17 for the Waimanalo area and No. 48 for the island-wide residential. About 4-years ago, his name appeared on the Department’s notice, so she called and spoke with Malia, who advised her to send in his death certificate. It took a while, but she finally received the death certificate and mailed it in April. She received a letter advising her that his lease application would be canceled because of Hawai`i Administrative Rules 10-3-8. The ruling was put in effect in 1981, 25 years after his application was submitted. The HAR was amended two more times in 1982 and by the State of Hawai`i’s Attorney General’s office. Sixty-four years later, she is before the Commission asking for clemency to her late Uncle’s application and to put his application to public notice so the family of the late Thomas Kamuela Kealiinohomoku can submit their request to succeed his application. Her siblings and her children, and she are all qualified Department of Hawaiian Home Land Applicants. She asked if her Uncle was given notice of the HAR 10-3-8, if so when he was notified, and to have proof of that notification.

Chair Aila referred R. Kealiinohomoku’s request to staff to consult with the Attorney General’s office. He noted that it might take a while, but the staff will contact her and keep her informed.

**ITEM J-4 Leslie Gordon – Neighbor Dispute (unavailable)**

**WORKSHOPS**

**LAND MANAGEMENT DIVISION**

**ITEM F-6 For Information Only – Revocable Permit Pilot Program, Status Update**

RECOMMENDED MOTION/ACTION

None. For Information Only. Acting Land Management Division Administrator Kahana Albinio presented the following:

K. Albinio introduced Consultant Becky Soon of Solutions Pacific, who presented the Revocable Permit Pilot Program update.

B. Soon stated her kuleana is to kako`o the Land Management Division into the next steps of the Revocable Pilot Program the Commission adopted in 2021.

Note: Slide presentation attached.

### DISCUSSION

Commissioner Neves asked if there would be the opportunity for community pastoral and if it would be allowed in the proposal. K. Albinio stated it is more along the line of a community pasture license.

Commissioner Awo asked about seeking permittees for that site and if there is any process for deciding who that might be. K. Albinio stated the process that was presented to the Commission in December 2021 is the process that will be used.

Commissioner Teruya asked if there was no water or electricity. K. Albinio stated there is water and electricity. She stated business owners are looking to do business in Kalaeloa. This program is to give the native Hawaiians a head start to be ready when the properties come up.

Commissioner Ka`upu asked if these are parcels where the Department is seeking somebody to take them down, for example, the Kalaeloa parcel. The Department needs someone to monitor it for homelessness and other things. K. Albinio agreed and stated the plan is for agricultural, pastoral, and industrial use. The Department identified these three properties

Commissioner Kaleikini asked what the duration of the pilot program continuing before getting results. K. Albinio stated that as soon as the three can get on, the deadline for the proposals is October 15<sup>th</sup> and they should present them to the Commission by December 2022 for approval. As the process progresses, tweaks will be made as needed for the next round.

Commissioner Helm asked about the decision for selection and who makes the final decision and award. K. Albinio stated they would have a committee of staff in the Land Management Division who would notify the Commission. Chair Aila stated that is the procedure used in every procurement process that the Department does. Ultimately, the recommendation is brought to the Commission, and the Commission makes the decision. Commissioner Helm stated he just wants to make sure things are fair.

B. Soon stated the criteria for each of the three parcels would be in the RFP. A table states the proposed use and ability to deliver, and so on.

Executive Assistant Jobie Masagatani stated that this is a pilot program, and it is not just the three parcels; eventually, it will be the Department's entire inventory of properties that could be in a short-term disposition to get a presence on the land.

Commissioner Neves stated he wanted to ensure that inspection, compliance, and enforcement are part of the format of the application process.

Commissioner Namu`o asked what the deliverables are. J. Masagatani stated they drafted the scope of services. There were specific deliverables in terms of outreach and programmatic development. There is the ability and flexibility to add that to the contract. There may be needs

along the way that may be critical, and B. Soon can help with crafting that. That is a good point, ensuring that the Department has the appropriate documentation in-house to move this from a pilot to a program to implement.

**ITEM F-7 For Information Only – Income Producing Properties Future Directions**  
**Status**

RECOMMENDED MOTION/ACTION

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

J. Masagatani stated this is an opportunity to complete the discussion on properties not intended for homesteading. The work that Becky Soon of Solutions Pacific does help with the revocable permit short-term uses and general leasing, and other opportunities for income production.

Note: Slide presentation attached

Revenue Generation Properties – Background – Why is it important

- Flexibility – when resources from State (GF or GOB are lean, DHHL development program/operations continue
- Commission directed
- Greater revenue = more services and programs

Trust Considerations – Potential Takeaways from “Kalima”

- The court found that the State breached its duties as trustee (4 duties identified)
  - Liability order (Circuit Court No. 3, 2009)
  - 4<sup>th</sup> duty – the duty to make the trust property productive
  - The case applies to the period 1959- 1988 only, but
- Standard the Court applied should be considered and may still be applicable
- DHHL general leases should be compared to leases issued by “private trust entities that have the same trust obligations” (KS/QLT), not DLNR leases.

She apologized to DAG Lambert for not showing this analysis first. She stated this is not a legal analysis but more of a business or operational consideration of what “Kalima” may mean as the Department looks at its revenue-generating properties.

The “Kalima” case talked about the revenues from DHHL general leases stating that they should be compared to leases issued by private trust entities with the same trust obligations, such as Kamehameha Schools, Queen Lili`uokalani Trust, and the Campbell Estates. The Court was trying to say that DLNR is not held to the same duties of loyalty that DHHL is to the HHCA beneficiaries and to make the properties productive. The more applicable analysis is a comparison with private trust entities that have the same trust obligations.

Considerations

- Nelson Case requires HHC to declare property not available for homesteading – Primarily industrial and commercial properties (small inventory of land to maximize revenue)
- To mitigate risk to the Trust, the preference policy was ended by HHC action in October 2001.
  - It should be replaced with business assistance efforts and early outreach so native Hawaiian businesses can prepare ahead of RFP release, or bid date for property

- Native Hawaiians were overbidding
- Requests for non-competitive general leases in lands designated commercial/industrial (usually a non-profit request)
  - What is the proposal? Will all beneficiaries benefit? If not, who benefits?
  - What does the opportunity cost? If KS owned the property, what could they earn given the land use designation, location, property constraints, and market?
  - Do the benefits of the proposal outweigh the opportunity costs to the trust?

Opportunities

- Outreach lessons learned from RP Pilot; applied to General Leasing program
- Start early with outreach to native Hawaiian businesses
- Potential partnerships with business assistance entities
- Long-term leasing opportunities for beneficiary businesses; community benefits for beneficiaries/homesteads as part of general leases
- But, trying to maximize revenue for the trust (hopefully with beneficiary partners)

Three parcels identified

- Kaei Hana I Industrial Subdivision, Waiakea S. Hilo, Hawai`i Island
- Kaei Hana II, Industrial Subdivision, Kawaihae, Hawai`i Island
- Campbell Industrial Park, Kalaeloa, O`ahu Island

Next Steps

- Identify properties best suited to generate revenue for the Trust
- Seek HHC authorization to begin the process
- Secure appraisals
- Initiate outreach early so interested native Hawaiian businesses or individuals can plan and prepare for when properties are ready for bid and Request for Proposals is released

DISCUSSION

Commissioner Kaleikini stated the interest for him is how the Department gets the word out to the interested native Hawaiians.

Commissioner Teruya asked if the Commission could review every general lease to ensure it benefits the Department and the beneficiaries. Does the Department have the ability to make General Leases subject to a call-back revision in the event the lessee does not fulfill its fiduciary duties? Can that be in the General Leases from the Commission? J. Masagatani stated typically, the contract includes standard provisions of the State and maybe special provisions. She deferred to Kahana or Katie because it depends on the methodology used. J. Masagatani stated, for non-profit bidders, the use of the property must be consistent with the purpose of a non-profit.

**ITEM F-9 For Information Only – Request from `Aina Alliance for a Long-Term General Lease to an Eleemosynary Organization, Anahola, Kaua`i**

RECOMMENDED MOTION/ACTION

None. For Information Only. Acting Land Management Division Administrator Kahana Albinio presented the following:

K. Albinio introduced Captain Jeremy Makepa of Aina Alliance, who will be doing the presentation. Captain Makepa introduced Lawai`a Naihe, CEO of Ho`akeolapono Trades Academy and Institute, who helps manage the acreage granted by Right of Entry, and Frank Cummings, Vice-President of Aina Alliance.

Anahola Stewardship Year 2

- President Aina Alliance and Captain of the Kaua'i Fire Department
- In charge of the Community Risk Reduction Program for the entire island – Fire and Hazard Reduction in the Anahola area
- Was approved Right of Entry to manage over 400 acres of DHHL land, February 2021
- The mission is to convert land liabilities into community assets
- Reduced criminal activities, reduced fires drastically, community involvement doing clean-ups and maintenance
- Culture and connectivity – kupuna feeling safe, children use for educational purposes, activities for the community

Financial Costs & Resources – is the challenge

- Requesting an Eleemosynary Designation and securing a General Lease
  - Already a charitable 501c3
  - Save DHHL money
  - A benefit to the community
  - Fulfills public needs
  - Potential programs – cultural, educational, environmental, emergency

Assist DHHL

- Planning liaison, safety, and security, parks & recreation, public works, community partner, inter-agency relations, grow support network, create economic opportunities for DHHL beneficiaries

Long-Term Grants

- DHHL, OHA, Hawai'i Community Foundation, County, Specialized – hazards, cultural, educational, environmental

## DISCUSSION

Commissioner Neves stated he supports this and would like to see more details.

Commissioner Ka'upu asked, under the Island Plan and the Regional Plan, what the land use designation for this 400-acre site is. A. Choy stated the Anahola Regional Plan is going through an update. Commissioner Ka'upu asked if there were proposed residential any time in the future? A. Choy stated there are two swats of residential, one is closer to the highway and the other a little off of the highway. They've had four meetings with the community.

Chair Aila stated it could be a condition in the future that the lands could be withdrawn for residential purposes. Commissioner Ka'upu stated the request for General Lease Eleemosynary, and he thinks the Department would carve off something reasonable because 400 acres is plenty. It sounds like you guys want to be closer to the ocean as the focus is more to the shoreline.

J. Makepa stated they have been managing the whole area. There are unsecured areas that people can access so their funny business. Until other ideas come through, the Alliance would be willing to manage the whole thing as a holistic approach. Commissioner Ka'upu asked if they could manage the whole thing with General Lease for an area closer to the ocean and stick with the revocable permit or the right of entry. Take the revocable permits for the remainder, which are short-term, so when the Department wants to move forward with its development plans, it can pull that back. Whereas General Lease is pa'a, you will be there for a while. J. Makepa stated that General Lease secures the investments for our partners who come in, so when they come in, they are secured as a sublease to that whole thing. Otherwise, Lawai'a is willing to put in his proposal for a section of this, but it does not secure what is next to him. Whereas, if they had a General Lease of the whole area, they have a say in which partners are coming in.

Commissioner Helm thanked them for the great job they are doing.

Chair Aila stated the group has heard suggestions from the Commission and recommended they speak with staff, consider those recommendations, and work on the application a little bit more. What was heard is the desire to go forward with some portions of a General Lease, but larger portions stay under the ROE for now and then incrementally achieve it.

## **OFFICE OF THE CHAIRMAN**

### **ITEM C-6 For Information Only – Plan to Address Prior Draft Meeting Minutes**

#### RECOMMENDED MOTION/ACTION

None. For Information Only. Executive Assistant Jobie Masagatani presented the following:

J. Masagatani recommended a proposal to get the Minutes listed as a draft on the website into a final form because it is important for the historical record. She did confer with Deputy Attorney General Katie Lambert, who assisted with understanding what the legal requirements are. She did try to articulate that in the submittal and suggested a path forward.

#### DISCUSSION

Commissioner Teruya asked what year the Commission is looking at. J. Masagatani stated the outstanding drafts are from 2016 to 2019. All of the drafts are online on the website.

Commissioner Teruya read the Administrative Rules 10-12-13, Minutes. She understands that according to the AG, these Minutes are not a violation of the Sunshine Law and not a violation of the Administrative Rules if the Commission moves ahead to adopt the Minutes. J. Masagatani deferred the response to DAG Lambert.

DAG Lambert stated this is something to go into the executive session for. Chair Aila left that to Commissioner Teruya, who stated she did not want to move into an executive session. She is not challenging Administrative Rules and Sunshine. She is concerned that she served from July 2019 and was not involved in the 2016, 2017, and 2018 discussions. What is she looking for on the Minutes, spelling, and grammar? J. Masagatani stated she is recommending she review the Minutes to give the Commission and members of the public comfort, the intention was to post the digital version of the meeting if there were members of the public interested in listening to the meetings. They are long two-day meetings. It can be in chunks for two months or three months. Because none of the Commissioners were sitting on the Commission at the time, the main requirement is that the written Minutes truly reflect the matters discussed at the meeting.

Commissioner Teruya stated under the Sunshine law when the meeting minutes are over. The draft has to be available to the public for 40-days. Forty days out, the draft has to be available on the website. She asked if that method was followed through 2016 with the Minutes. J. Masagatani stated the Sunshine Law as it relates to Minutes has changed specifically in the recent past, and she would have to go back or talk with DAG Lambert about what it was at the time.

J. Masagatani stated there was a time the Secretary to the Commission was retiring, and there was a period there was no Secretary to the Commission. Before this administration ends, she wants to get these draft Minutes in final form.

Commissioner Teruya stated she would not support moving this forward for the past Minutes. Chair Aila stated he there is no decision-making.

Commissioner Kaleikini asked if there were videos of the draft Minutes. J. Masagatani stated there are audios. He stated okay, there is backup if one wants to listen. He remembered this discussion in 2019, and there was a caveat that the Commissioners were not on the Commission at the time. He was unsure if there was a vote but stated the Commission should review that.

Commissioner Awo stated this is not decision-making, and he has no interest in participating in a PIG that requires hundreds of hours of listening to old Minutes.

Chair Aila stated Commissioners are not interested in reviewing hundreds of hours of tape. J. Masagatani stated the suggestion is to provide the Minutes and the audio and ask for the Commission's acceptance. Whatever conditions the Commission wants, like the Commission is accepting it as final and did not preside over the meeting, whatever the Commission is comfortable with. The audio/digital version will be available for them to listen to, should they want to, to ensure accuracy.

Chair Aila stated, as you proposed, that you will be reviewing them, batch them, making available the audio versions, making the Commissioners aware, who want to listen and comment, and take those batches. Those that want to vote for final approval can vote at the Commission level. It is not required, is Chair Aila's understanding.

DAG Lambert stated the Sunshine Law does not require Board approval, but what the Sunshine Law requires on HRS 92-9 (might be 92-2) is that the Minutes accurately reflect what was discussed at the time and what is important. The statute contemplates that the Minutes reflect not just Board action but public participation that may have occurred. That is what the Minutes should reflect in final form. So, it is not the Sunshine Law, not in HRS 92, but it is guidance from the Office of Information Practices (OIP). The Sunshine Law does not require Board approval, but many Boards choose to do so. She stated that the Commission has a rule that supplements where the practice comes from as far as the Board approves the Minutes. That is 10-2-13, so Board approval is needed. What is required by the Sunshine Law is that the Minutes be accurate.

Chair Aila asked DAG Lambert if the Commission, since Jobie was the Chair at the time, relied on her recollection of reviewing the Minutes' memory that they are accurate. Then take a Board action based upon her recommendation? DAG Ducatt stated yes, but the same questions would arise.

Commissioner Ka'upu stated batches were mentioned, what that means, and what the timing is. Chair Aila stated J. Masagatani could not bring all of the Minutes from the meetings in September, so the plan was to bring several months of Minutes in September, then several months of Minutes in the following months.

J. Masagatani stated she would bring 2-3 months of Minutes in September and make the digital/audio versions of those meetings available to the Commission. It is to seek the action of the Minutes as final.

Commissioner Ka'upu asked the plan is to get it done by the end of the year. J. Masagatani stated the plan is to start. It can continue over the months that it takes. Her commitment is to complete her review by the end of the year.

Commissioner Teruya stated she appreciates the process that from 2019 this Commission, the leadership moved to have the agendas agendized, the Commissioners have the opportunity to look

at their Minutes, participate in corrections and approve the Minutes, and that they do not get into a situation like this. The Commission is on the right track now.

**LAND MANAGEMENT DIVISION**

**ITEM F-8 For Information Only – General Lease Request, Hawaiian Community Development Board, Kalaeloa, Island of O`ahu, TMK (1) 9-1-013:001 (Deferred)**

**ANNOUNCEMENTS AND ADJOURNMENT**

**NEXT MEETING**

Community Meeting Monday, August 15, 2022, 6:30 p.m. King Kaumuali`i Elementary School  
4380 Hanama`ulu Road, Lihu`e, Kaua`i, Hawai`i 96766

The next HHC meeting will be held on September 19 & 20, 2022, Monday & Tuesday, Lahaina, Maui, Hawai`i

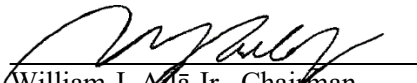
**MOTION/ACTION**

Moved by Commissioner Helm, seconded by Commissioner Kaleikini, to adjourn the meeting.  
Motion carried unanimously.


**ADJOURNMENT**

**3:00 PM**

Respectfully submitted:

  
\_\_\_\_\_  
William J. Aia 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