

HAWAIIAN HOMES COMMISSION SPECIAL MEETING

Minutes of August 25, 2022

91-5420 Kapolei Parkway, Kapolei, O`ahu, Hawai`i
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 10:00 a.m.

PRESENT William J. Ailā Jr., Chairman
Randy K. Awo, Maui Commissioner
Zachary Z. Helm, Moloka`i Commissioner
Michael L. Kaleikini, East Hawai`i Commissioner (via ICT)
Pauline N. Namu`o, O`ahu Commissioner (via ICT)
Dennis L. Neves, Kauai Commissioner (via ICT)
Patricia A. Teruya, O`ahu Commissioner
Vacant seat, West Hawai`i Commissioner

EXCUSED Russell K. Ka`upu, O`ahu 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
Paula Ailā, Acting Contact and Awards Division Administrator
Jamilia Pacheco, Information Specialist
Michael Lowe, Information Specialist

ORDER OF BUSINESS

CALL TO ORDER

Chair Ailā called the meeting to order at 10:09 a.m. seven (7) members were present at the roll call, establishing a quorum. Four (4) in person, three (3) via ICT.

Pursuant to Act 220, Commissioners Awo, Helm, and Teruya were present. Commissioners Kaleikini, Namu`o, and Neves were on via ICT. The Commissioners, via remote, should keep their cameras on unless excusing themselves from the meeting. A quorum of Commissioners must be visible during the meeting. Since only four (4) people are in the room, at least one (1) Commissioner on Zoom must remain visible throughout. The Commission should 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 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. Public testimony must be on an agendized item. Public testifiers are limited to 3-minutes per person. For those participants online, public testimony can occur at the beginning of the agenda or at the time the

item is being discussed. 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.

APPROVAL OF AGENDA

MOTION/ACTION

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

Commissioner Teruya stated she wondered why an executive session was on the agenda because she thought the meeting was only to address Items C-4 and C-5. Chair Aila stated the items came up and thought the Commission would benefit from the additional information from Katie in the executive session.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

PT-1 Jeff Gilbraith – Item C-4 Act 279

J. Gilbraith testified he is the Executive Director of Hawai`i Community Lending (HCL) and the former Executive Director of Hawai`i Community Assets (HCA), and a Board Member of the Council for Native Hawaiian Advancement (CNHA).

Regardless of how the money is spent, the need is to cut down the time for families to get into their homes. He shared key findings of a two-month listening tour hosted by their three organizations, HCL, HCA, and CNHA, in June. The listening tour identified solutions to streamline the process at DHHL in light of the \$600 million.

Their organizations hosted group listening sessions with beneficiaries, homestead leaders, HUD counselors, certified native DCFI, mortgage lenders, builders and developers, building suppliers, and government agencies. They conducted key stakeholder interviews that allowed them to dig deep into the issues and solutions. Following the listening sessions, they provided an evaluation for individuals to complete and share with their community. Throughout the process, they shared their preliminary results with the Director and Deputy Director to get actionable feedback for guidance and potential solutions. They are now finalizing the recommendations and hope to submit them to the Commission in September.

They identified three key themes that could help produce a timeline for getting families into their homes in an estimated time of 3-years.

- Communication and awareness – beneficial is the process from start to finish, from when the environmental assessment is completed to when the family gets into the home.
- Strengthening public and private partnerships – the community and industry folks are ready to help and need to know how.
- Invest in beneficiaries – bringing services and resources to beneficiaries so they can get into homes quicker

Commissioner Teruya stated she supports the training workshop process with partners, stakeholders, and other organizations involved in the discussions. She stated the RFQs would be faster and allows the Department to work with qualified developers, and it will support the qualified local developers.

Chair Aila stated the Department has been speaking with Jeff for a while, and some of the things he brought forth are being reviewed by staff now. The secondary review of the permit is not redundant, and staff ensures that the house is not placed on any easements for drainage, electrical, or anything like that. He thinks it gets turned around in less than a week. That is the primary purpose of the Department's review to avoid problems.

J. Gilbraith stated they shared draft findings with the Director and Deputy. They are still finalizing to submit the full package to the Commission. They must go through the process and ensure the community weighs in with each step. It is being kicked back and forth with the Director and Deputy to ensure we understand what is actionable versus putting recommendations that might sit on the shelf.

Commissioner Teruya stated that today's meeting would adopt the PIG's recommendation. The submittal from the PIG does not cover much of what J. Gilbraith expressed, which she would support, like the RFQ process.

Chair Aila stated most of the things J. Gilbraith has covered the \$60 million personal services type of activity. It has to be defined further, and it was made clear and the PIG level and the Commission table that there are more specifications to come as this move forward.

Commissioner Neves stated this was not provided to the PIG, but the PIG understood that the \$60 million is to look at these things and how it will help the Department move forward.

PT-2 Dayne Kahau – Papakolea

D. Kahau just wants to know about whatever pertains to his Papakolea issue. Chair Aila stated there was no update. The Department is in the investigative phase.

PT-3 Kali Watson – Item C-4 Act 279

K. Watson stated this is an opportunity for the Department and other entities to get together and develop an approach that will make an impact. He is here to provide constructive comments, and he stated he did submit his written testimony. He noted that the graph in his submittal, the 3800 units is in addition to what is proposed by the Department, which increases the count to over 6,000 units using the \$600 million.

He reviewed the recommendations submitted by the PIG, and one of the misunderstandings, he pointed out, is the value of the Low Income Housing Tax Credit (LIHTC) rent-to-own program. This is how private developers approach the funding of the projects because without these subsidies; it is almost impossible for the developers to build the units.

He stated some people could not qualify for the turn-key projects because they do not make enough income. The answer and solution to that is the LIHTC rent-to-own approach, as it will leverage and provide the funding from the LIHTC.

He stated he thinks that Ulu Ke Kukui is a wonderful project; they are the only ones who saw the challenges and are committed to it. He asked that the Department amend its budget and put the Uu Ke Kukui budget in there for \$11.377 million. They raised \$5.5 million, but that is not enough.

He stated that the RFQ process is excellent and a way to expedite selecting and identifying the qualified developers that can move things along and front the money for the pre-development instead of the Department.

Commissioner Teruya stated she would like the funding for Ulu Ke Kukui to move through for the beneficiaries. She asked about the Waianae/Kupuna Housing and if it is the property next to the Waianae Comprehensive Center. K. Watson stated it is on DHHL lands and has been working with Rich Bettini and Waianae Kai Homestead Association. The idea of doing kupuna housing adjacent to the Waianae Comprehensive Center is just what the kupuna needs. It is providing the services they need. K. Watson referenced a development project he was working on. He stated he would throw out the suggestion that the Department might want to buy that. It is a \$40 million project, and they will be finished with construction in February 2023. The location is right off the Bowl-O-Drome.

Commissioner Teruya asked there is only one kupuna housing on O`ahu. Chair Aila stated that is correct, and there is a reason for that as it requires heavily subsidized funding.

Commissioner Awo stated K. Watson has funding challenges according to his submittal. K. Watson stated that Ulu Ke Kukui is a renovation plan with qualified allocation criteria or scoring system. He stated they are skilled in acquiring those LIHTC funds and other developers.

K. Watson asked that the Commission and the Department allow him to bypass the permitting for Ulu Ke Kukui. Commissioner Awo stated that his concern on bypassing permitting is that substandard housing is built for the beneficiaries.

Chair Aila stated the Department is already implementing some of his suggestions. He stated the subject matter today is the first year and a half of the budget. There are still two more years which gives the Department time to acquire property and partner. He stated the Commission wants to get started, which is why it is presented.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-4 Approval of the 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, the Strategic Approach Plan, which was attached as Exhibit A, and authorize the Chairman to begin implementation of such plan.

Chair Aila stated because the maker of the motion is not here today, to make it clearer, he would like a new motion to consider the staff's recommendation on Agenda Item C-4.

MOTION

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

Executive Assistant Jobie Masagatani stated Act 279 is not like typical funding, it is a general fund appropriation provided through the Legislature, and there are specific expectations regarding its use. The intention is that it be used for individuals on the waiting list. There is a requirement to provide a strategic plan to the Legislature. A couple of elements need to be continued or brought back to the Commission regarding suggestions on Legislation that could be considered. Because it is General Funds, when Budget and Finance (B&F) deals with any funds made available to any state agency, how that funding is executed by the state agency is dictated by a Budget Execution Memorandum (BEM). B&F issues it every year, and it is available online. It looks like the expenditure of the money will require the Governor's approval through B&F.

Chair Aila established the Permitted Interactive Group (PIG) in May before the July signing date. A status report was presented to the Commission in June. The strategic approach was presented in August.

DISCUSSION

Commissioner Awo stated the purpose of the separate meeting was to give the Commission an opportunity for time and deliberation, as it was not afforded.

Commissioner Helm stated his concern is the staff is getting the job done on time. He mentioned that Peter Savio has been selling lots for farming and it would be a good idea for someone to approach him. He highly recommended hiring the proper staff.

Commissioner Kaleikini stated he looked at the status report and expressed his appreciation for the effort they put in. He stated he is in support of the plan.

Chair Aila stated all the Commissioners had felt the pressure of how to spend \$600 million in 2-years and 11 months from now. There is the ability to hire professional help to oversee the contracts and the process that will lead to contracts and encumbrances. The Department has two well-experienced employees that are not going anywhere soon, Stewart Matsunaga and Darrell Ing. In the last two years, they have mentored the junior staff who have stepped up. The Department is confident that it can get this done and need the Commission's assistance in helping this to move forward. The plan will change as things move forward, and figure out how the contracts for the \$60 million will work, what good offers come in, and how to build the ability to leverage these construction projects. If the Department can get someone to build it without any money, it can ideally use the money in other areas.

The Commission is looking at everything that is brought to its attention. He is sure there will be hiccups along the way but confident that the staff and the Administration that will follow this current Administration will see the immediacy and the historical importance in what this Commission is about to approve today and hope it will be flexible to move into the next year and the year after to encumber everything.

S. Matsunaga stated they have a rough idea of the lot sizes, which come from the Master Plan and the various environmental assessments that provide the size of the project and infrastructure requirements. He stated they are trying to maximize the quantity of land as they have had pushbacks on the size of the lots.

Commissioner Awo stated the Department does have the expertise, and bringing in additional developers as a possibility is to augment what the Department has in their skill sets. He thinks it is fair that the Department bring in additional help to accelerate housing creation for our

beneficiaries. The Commission should be moving with deliberate speed and not reckless abandonment. It is all about the deliverables.

Commissioner Teruya clarified that her comments earlier regarding creating a new division to implement Act 279 were not meant to criticize any body or that the staff does not do good work. Her concern was if the Department consider another division and did the Department have enough staff. She wants to say it for the minutes, the record, and the public.

Commissioner Namu`o stated she believes the recommendation to discuss this project was good. All input should be considered, and Jobie should look at what can be incorporated. The Commissioners understand this is a flexible document. The Commission needs to support the staff because they have done great work.

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			
Commissioner Kaleikini		X	X			
Commissioner Ka`upu						X
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			7			1
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Seven (7) Yes votes.						

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

RECOMMENDED MOTION/ACTION

Executive Assistant Jobie Masagatani and Administrative Service Officer Rodney Lau presented the following:

Motion that the Hawaiian Homes Commission approve the Act 279 Implementation Budget Fiscal Year 2022-2023 for the Department of Hawaiian Home Lands; and authorize the Chairman to shift funding of expenditures between cost elements and funds as warranted but not to exceed the total budget.

J. Masagatani stated Item C-5 is the first year to implement the strategic approach. The plan anticipated 3-years of spending, but due to a technical glitch, the Department currently has only 2-years of authorization. The budget plan anticipates 2-years, and it is an aggressive expectation. Hopefully, the Legislature concurs with the recognition that it was a technical glitch and that the Department needs an additional third year. However, that will have to be secured through the Legislature's next session.

MOTION

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

J. Masagatani stated they presented the submittal to the Commission earlier last week. They also have the Development Budget that was approved in June. This is a significant portion of the development picture, but it is not the only work going on.

Chair Aila stated that the Development Budget allows the Commissioners to see the other \$79 million that is being used on other projects that are not on the \$600 million. The Commissioners can see all the projects that are in play and are being implemented.

DISCUSSION

Commissioner Teruya asked to go to the O'ahu, Exhibit A, the Ewa Beach NOAA project listed at \$600. Is the Department looking at environmental challenges on that surplus property, and would it take longer than expected?

Planning Manager Andrew Choy stated they would need to complete the HRS Chapter 343 and a federal environmental assessment for that property. A work plan and schedule have been finalized with the Consultant, and we are looking to finish the environmental assessment in October 2023. They will look at other potential environmental hazards, such as rising sea levels and hazardous materials. The National Oceanic and Atmospheric Administration have owned the property for several decades, and the previous owner was not military. It is hopeful that NOAA, who ran the Pacific Tsunami Warning Center, did not have the same impact that the military would have on the property. The way the preliminary strategic approach was drafted provides flexibility and re-examining what projects can be funded every year based on the planning that has gone into it.

Commissioner Teruya asked to point out the budget where Ulu Ke Kukui is so she can feel comfortable that the project will be in the budget to secure funding to move forward. J. Masagatani stated that Ulu Ke Kukui is contracted with a private partner developer with whom the Department went through a procurement process. As Kali Watson testified in his presentation, Ulu Ke Kukui is a renovation project and not scoring as high for the low-income housing tax credit resources.

In the submittal, in the first year's budget, under the project financing partnership's statewide project, \$30 million has been set aside. The specific elements will have to be worked through and returned to the Commission before moving forward with implementation. Commissioner Teruya asked if it was premature to put it in the budget today. J. Masagatani stated she would not as the Department wants to talk to HHFDC. With respect to K. Watson, the project may need \$3 million and not \$11 million, which is unknown. The Department also wants to make sure that the due diligence goes on. She thinks it would risk the Department specifically outlining the money.

Commissioner Awo stated it is undetermined how innovative the Department can become. It is a work in progress.

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		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			7			1
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Seven (7) Yes votes.						

**RECESS
RECONVENED**

**11:57 AM
12:20 pm**

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

12:20 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.

1. Briefing regarding fiduciary duties and responsibilities
2. Briefing on remand order – Janicki v. Hawaiian Homes Commission, et al., ICCV-22-0000025
3. Briefing on effect of March 31, 2017, amendment to sections 10-2-16(b) and (c), Hawai'i Administrative Rules

EXECUTIVE SESSION OUT

2:20 PM

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next HHC meeting will be held on September 19 & 20, 2022, Monday & Tuesday, Waiola Church Hall, Lahaina, 535 Waine`e Street, Lahaina, Maui, Hawai`i 96761

MOTION/ACTION

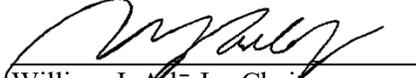
Moved by Commissioner Helm, seconded by Commissioner Awo, to adjourn the meeting.

Motion carried unanimously.

ADJOURNMENT

2:20 PM

Respectfully submitted:



William J. Ailā Jr., Chairman
Hawaiian Homes Commission

Prepared by:



Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission