

HAWAIIAN HOMES COMMISSION
Minutes of December 16 and 17, 2013
Meeting Held in Kapolei, Oahu

Pursuant to proper call, the 646th Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, Kapolei, Hawaii, beginning at 10:05 a.m.

SWEAR IN Doreen Napua Gomes was sworn in as Commissioner of Maui by Chair Masagatani.

PRESENT Jobie M. K. Masagatani, Chairman
Gene Ross K. Davis, Commissioner, Molokai
Doreen N. Gomes, Commissioner, Maui
J. Kama Hopkins, Commissioner, Oahu
Wallace A. Ishibashi, Commissioner, East Hawaii
Michael P. Kahikina, Commissioner, Oahu
Patricia W. Sheehan, Commissioner, Kauai
Renwick V. I. Tassill, Commissioner, Oahu

EXCUSED Leimana DaMate, Commissioner, West Hawaii

COUNSEL Craig Y. Iha, Deputy Attorney General

STAFF Darrell Young, Deputy to the Chair
Derek Kimura, Executive Assistant
Niniau Simmons, NAHASDA Manager, Office of the Chair
Francis Apoliona, Compliance Officer
Norman Sakamoto, Land Development Specialist, Office of the Chair
Dean Oshiro, Acting Administrator, Homestead Services Division
Juan Garcia, Homestead District Supervisor, Homestead Services Division
Kanai Kapeliela, Applications Officer, Homestead Services Division
Kahana Albinio, Property Development Manager, Land Management Division
Carolyn Darr, Land Agent, Land Management Division
Kaipo Duncan, Land Agent, Land Management Division
Kip Akana, Enforcement Officer
John Peiper, Enforcement Officer
Elaine Searle, Secretary to the Commission

MINUTES Commissioner Tassill moved, seconded by Commissioner Ishibashi, to defer approval of minutes until Tuesday's agenda. Motion carried unanimously.

AGENDA Commissioner Gomes moved, seconded by Commissioner Hopkins, to approve the agenda. Motion carried unanimously.

C - OFFICE OF THE CHAIRMAN

ITEM NO: C-1

**SUBJECT: Approval to Issue Right-of-Entry Permits to Various Entities, Statewide
(see exhibit)**

RECOMMENDATION

Deputy to the Chair Darrell Young recommended that the Hawaiian Homes Commission authorize the issuance of Right-of-Entry (ROE) permits to those respective entities and/or individuals referenced in the tables attached, to utilize portions of Hawaiian home lands for its respective purposes. Individuals and entities are non-former RP (Revocable Permit) holders, or are connected to former RP's that require certain adjustments. Approval is subject, but not limited, to the standard revocable entry terms and conditions.

MOTION

Moved by Commissioner Hopkins, seconded by Commissioner Gomes.

DISCUSSION

A moratorium exists on the issuance of revocable permits (RP), as the department reviews its RP program, noted Deputy Young. In its place, the Hawaiian Home Commission has authorized issuance of a Right-of-Entry (ROE) permit to those in compliance. Applicants, who met permit requirements, were also subject to the moratorium, and Land Management Division (LMD) is seeking authorization of new ROE permits for these applicants. Currently, 82% of the permittees have met their obligations, while the department is attempting to manage the 13%, non-compliant permit holders. On site inspections will be inclusive with the recommendations to the commission.

D. Young noted that Allan Silva, RP 173, is working with the department for the purposes of raising and stabling horses, while Hawaii Explosives, RP 301, is surrendering a portion of their parcel in Kalaeloa.

MOTION/ACTION

Moved by Commissioner Tassill, seconded by Commissioner Hopkins, to adjourn to executive session to consult with its counsel. Motion carried unanimously.

RECESS

10:28 a.m.

EXECUTIVE SESSION

The Commission convened in executive session pursuant to Section 92-5 (a), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on the above-subject matter.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina, to reconvene in regular session. Motion carried unanimously.

RECONVENE 11:06 a.m.

ITEM NO: C-1 (cont.)

SUBJECT: Approval to Issue Right-of-Entry Permits to Various Entities, Statewide (see exhibit)

A roll call vote was taken.

AE (7)

AOLE (0)

HOOKUU (2)

DAVIS
GOMES *
HOPKINS
ISHIBASHI
KAHIKINA *
SHEEHAN
MASAGATANI
* with reservations

DAMATE
TASSILL

ACTION

Motion carried.

D - HOMESTEAD SERVICES DIVISION

ITEM NO: D-1

SUBJECT: HSD Status Reports

MOTION/ACTION

None; for information only.

ITEM NO: D-2

SUBJECT: Approval of Consent to Mortgage (see exhibit)

MOTION/ACTION

Moved by Commissioner Davis, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: D-3

SUBJECT: Approval of Streamline Refinance of Loans (see exhibit)

MOTION/ACTION

Moved by Commissioner Gomes, seconded by Commissioner Davis. Motion carried unanimously.

ITEM NO: D-4

SUBJECT: Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: D-5

SUBJECT: Ratification of Loan Approvals (see exhibit)

MOTION

Moved by Commissioner Tassill, seconded by Commissioner Hopkins.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina, to adjourn to executive session. Motion carried unanimously.

RECESS 11:40 a.m.

EXECUTIVE SESSION

The Commission convened in executive session pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on the above-subject matter.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Hopkins, to reconvene in the regular meeting.

RECONVENE 11:56 a.m.

ITEM NO: D-5 (cont.)

SUBJECT: Ratification of Loan Approvals (see exhibit)

ACTION

Motion carried unanimously.

ITEM NO: D-6

SUBJECT: Approval of Homestead Application Transfers / Cancellations (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: D-7

**SUBJECT: Commission Designation of Successors to Application Rights – Public Notice
2012**

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: D-8

**SUBJECT: Adjustment to the Application Agricultural and Pastoral Wait List
– George K. Ahuna**

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Gomes. Motion carried unanimously.

ITEM NO: D-9

**SUBJECT: Ratification of Designation of Successor to Leasehold Interest and
Designation of Person to Receive Net Proceed (see exhibit)**

MOTION/ACTION

Moved by Commissioner Davis, seconded by Commissioner Hopkins. Motion carried unanimously.

ITEM NO: D-10

SUBJECT: Approval of Assignment of Leasehold Interest (see exhibit)

MOTION/ACTION

Moved by Commissioner, seconded by Commissioner Gomes. Motion carried unanimously.

ITEM NO: D-11

SUBJECT: Approval of Amendment of Leasehold Interest (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Sheehan. Motion carried unanimously.

ITEM NO: D-12

**SUBJECT: Commissioner Designation of Successor – Pauline M. Yin, Lease No. 5209,
Nanakuli, Oahu**

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Sheehan. Motion carried unanimously.

ITEM NO: D-13

**SUBJECT: Commission Designation of Successor – Nathan K. K. Y. Kanae,
Lease No. 3834, Paukukalo, Maui**

MOTION/ACTION

Moved by Commissioner Gomes, seconded by Commissioner Davis. Motion carried unanimously.

F - LAND MANAGEMENT DIVISION

ITEM NO: F-1

**SUBJECT: Approval to Issue Right-of-Entry Permit, Waiehu Kou Phase 3 Association,
Inc, Waiehu Kou, Maui**

Commission recessed to review testimony submitted by Waiehu Kou 3, to be made a part of these minutes as Exhibit “A” for Item F-1.

RECESS 12:10 p.m.

RECONVENE 12:15 p.m.

RECOMMENDATION

Property Development Manager Kahana Albinio recommended issuance of a Right-of-Entry (ROE) permit to the Waiehu Kou Phase 3 Association, Inc (WKP3A).

MOTION

Moved by Commissioner Gomes, seconded by Commissioner Hopkins.

DISCUSSION

K. Albinio corrected Item No. 1 on Page 1 to read ... terminating on **January 31, 2016**, instead of ~~January 31, 2015~~. The ROE will afford WKP3A the ability to conduct preliminary due diligence field work for future development of a longhouse pavilion community center. K. Albinio informed the commission that the typical monthly fees are set at \$20. Land Agent Carolyn Darr confirmed that Paukukalo has a similar monthly fee requirement of \$20.

Commissioner Hopkins is amenable to granting WKP3A a request for “gratis” fee, until plans for the subsequent project move ahead. K. Albinio laid out the two-year plan for the project:

Year 1 – begin due diligence in research of the site; and
Year 2 – demonstrate a capacity to fund.

He added that a request for a longer term would likely come before the commission, once the project is completed.

AMENDED MOTION

Moved by Commissioner Hopkins, to strike condition #2, for two years, seconded by Commissioner Kahikina.

DISCUSSION

Commissioner Gomes corrected a statement made in WKP3A's testimony that implied DHHL provided Waiohuli over \$1 million, to develop its community park. She affirmed that Waiohuli Homestead Association (WHA) received funding through a grant-in-aid from the State of Hawaii.

The Chair spoke against the amended motion, articulating that this matter concerns an overall policy for beneficiary-based organizations. If the decision is to seek "gratis" for beneficiary community based organizations, then it should be available to everyone, not necessarily for those seeking "gratis" dispositions. A community organization, similar to WKP3A, recently acquired an ROE, and complied with all of the terms and conditions, including fees. The Chair recommended that the department review its policy, to be consistent, and not base it on individual requests. Commissioner Hopkins prefers a case-by-case assessment, although he recognizes the need for consistency. He agreed removing the "gratis" disposition for everyone, including Paniola Preservation Society (PPS).

Commissioner Kahikina said that the request form for non-homesteading usage was vetted with the beneficiaries. He recommended clear policies and procedures, in promulgating those rules. Land Agent Carolyn Darr pointed out that, until the RP (Revocable Permit) program is in place, everyone will be charged a fee. Commissioner Hopkins agreed with Chair's recommendation, and requested assessing PPS a monthly fee.

MOTION WITHDRAWN

Commissioner Hopkins withdrew his amended motion, seconded by Commissioner Kahikina.

DISCUSSION

Commissioner Sheehan recommended deferral of monthly fees up to two years, to permit the community associations sufficient time to complete their due diligence, as other liability costs may be incurred during the preparation of the ROE. The Commission has an option to defer

payment until the end of two years. Fees may be incorporated into the project or be waived, should the project not materialize, added the Chair.

AMENDED MOTION/ACTION

Moved by Commissioner Sheehan, seconded by Commissioner Hopkins, to append to condition No. 2 **“with a fee deferred until the end of the two-year period.”** Motion carried unanimously.

DISCUSSION

The Chair clarified that Item No. 2 was amended, to include a monthly fee of \$20 for the ROE or \$240 per annum, with a fee deferment. Commissioner Hopkins reiterated the Year 1 and Year 2 processes. The Chair affirmed that charges could, subsequently, be paid at the end of the two-year term, whether the project succeeded or not.

ACTION ON MAIN MOTION

Motion carried unanimously, as amended.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Ishibashi, to reconsider Item C-1. Motion carried unanimously.

ITEM NO.: C-1 (cont.)

SUBJECT: Approval to Issue Right-of-Entry Permits to Various Entities, Statewide

DISCUSSION

Commissioner Hopkins inquired whether there was any intent to charge Paniola Preservation Society (PPS) for the use of the 15 acres in Humuula, although they agreed to maintain and upkeep the property. K. Albinio confirmed there was no consideration for payment. Commissioner Hopkins then recommended deferring approval until next month, to consider a monthly fee. As Land Agent Mike Robinson is familiar with this project, K. Albinio recommended he be present, to answer any questions or concerns by the commission.

AMENDED MOTION

Moved by Commission Hopkins, seconded by Commissioner Gomes, to defer the Paniola Preservation Society approval until the next monthly meeting.

DISCUSSION

Commissioner Ishibashi inquired whether the parcel is zoned commercially. K. Albinio conveyed that a corner of the Mauna Kea Access and Saddle Road is identified as commercial. The Chair clarified that the Humuula parcel is part of the Aina Mauna Legacy Plan which overlays the island plan, and established a 100-year perspective on how those lands could be utilized.

ACTION ON AMENDED MOTION

Motion carried unanimously.

ACTION ON ORIGINAL MOTION

Motion carried unanimously, as amended.

ITEM NO: F-2

SUBJECT: Approval to Issue Right-of-Entry Permit, Alexander & Baldwin, Inc.,
Pulehunui, Maui

RECOMMENDATION

Property Development Manager K. Albinio recommended two (2) Right-of-Entry (ROE) permits be issued to Alexander & Baldwin, Inc.

MOTION

Moved by Commissioner Gomes, seconded by Commissioner Sheehan.

DISCUSSION

Correction on Page 1, Item 1. The issuance of the Rights-of-Entries (ROE) shall be as follows: Parcels 008, 035(P) at \$11,520.00/annually from 7/1/13 – 6/30/14; \$13,248/annually ~~7/1/13 – 6/30/14~~ 7/1/14 – 9/30/15.

These two ROE's were separated from other ROE's and given a different timeline, due to existing crops in the ground, noted Land Agent Carolyn Darr. Once the crops are completed and the ROE expires, a decision can be determined whether the department will deem other uses for the land. At this point, a request for extension may be considered.

MOTION/ACTION

Moved by Commissioner Hopkins seconded by Commissioner Ishibashi, to adjourn to executive session to address Exhibit “B” of Item F-2. Motion carried unanimously.

RECESS 12:45 p.m.

EXECUTIVE SESSION

The Commission convened in executive session pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on the above-subject matter.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Gomes, to reconvene to the regular meeting. Motion carried unanimously.

RECONVENE 1:24 p.m.

ITEM NO: F-2 (cont.)

SUBJECT: Approval to Issue Right-of-Entry Permit, Alexander & Baldwin, Inc.,
Pulehunui, Maui

ACTION

Motion carried unanimously.

ITEM NO: F-3

SUBJECT: Approval to Issue Right-of-Entry Permit, F.A.R.E Feral Animal Removal
Experts, LLC, Kahikinui, Maui

RECOMMENDATION

Property Development Manager K. Albinio, recommended to the commission, to authorize the issuance of a Right-of-Entry (ROE) permit to F.A.R.E. (Feral Animal Removal Experts LLC), to construct 2.7 miles of fencing for the protection and restoration of the watershed forest at Kahikinui, Maui.

MOTION

Moved by Commissioner Hopkins, seconded by Commissioner Gomes.

DISCUSSION

This contract was initiated between DLNR (Department of Land and Natural Resources) and F.A.R.E. at no cost to the Trust, to construct a fence on Hawaiian home lands to shut out feral animals, noted C. Darr. Andrea Buckman, Leeward Haleakala Watershed Restoration Partnership (LHWRP), appeared before the commission to clarify that this project began in August 2013 and LHWRP is currently engaged in a second phase of a three-phase mission. Federal grants help to subsidize this project.

With its current proposal, to ensure all ROE's are charged, Commissioner Hopkins recommended a minimal monthly fee of \$20 per month or a \$240 annual fee be incorporated.

AMENDED MOTION

Moved by Commissioner Hopkins that the previous motion of "gratis" fee for LHWRP be amended and, instead, be assessed a \$20 monthly fee or \$240 annual fee, to be consistent with all other ROE's, seconded by Commissioner Gomes.

DISCUSSION

Commissioner Ishibashi inquired as to who is responsible for removing the feral animals. A. Buckman noted that knowledgeable ranchers and community groups, along with DHHL, will determine a suitable plan for everyone. She noted that a third grant of \$565,000 was awarded to F.A.R.E. to complete the final fencing. The work is progressing nicely and all fencing should be completed well in advance. An area outside of the fenced area is deemed suitable for grazing. The community expressed its ideas on how to divvy up the meat and eliminate the wild and dangerous animals. Commissioner Davis shared ideas on a similar program on Molokai. The Chair suggested consulting with Land Agent Mike Robinson, on Hawaii Island, due to his similar experiences. A. Buckman noted that her crew met with M. Robinson, and he provided invaluable information and recommendations. The purpose of the fencing is to exclude animals which have destroyed the watershed and not the people, conveyed A. Buckman. The project was designed to capture the band of forest clouds. The long-term goal is to install fog intercept systems and reservoirs where the community could obtain water, passively, with minimal costs. The Chair recommended that F.A.R.E. work closely with the department, to overcome some challenges, such as locked gates and key management issues, especially for such a remote area. A. Buckman articulated that these gates are gravity controlled and are unlocked.

ACTION ON AMENDED MOTION

Motion carried unanimously, as amended.

ITEM NO: F-4

SUBJECT: Approval of Amendment to and Assignment of General Leases, Aloha Beach Resort – Nomura CDO, LLC, General Lease Nos. S-3831, S-3840, and S-4647, Wailua, Kauai

RECOMMENDATION

K. Albinio introduced General Manager Ray Blouin, Aston Aloha Beach Hotel, and CEO John Andrews, Pandey Hotel Corporation. K. Albinio recommended to the commission a two-part final approval for: (1) 55-year extension of lease term for General Lease Nos. S-3831, S-3840, and S-4647, and “Development Agreement as required by Act 219” (as stated); and (2) Assignment of General Lease Nos. S-3831, S-3840, and S-4647, from Aloha Beach Resort Nomura CDO, LLC , to Pandey Hotel Corporation.

MOTION

Moved by Commissioner Gomes, seconded by Commissioner Kahikina.

DISCUSSION

Deputy AG Iha recommended a slight modification be added to the submittal as the “Development Agreement” is a condition of Act 219, which is required by law.

RECOMMENDED MOTION/ACTION

Moved by Commissioner Sheehan, seconded by Commissioner Hopkins, to include in Part 1 ... S4647 and **Development Agreement as required by Act 219**, (verbally stated). Motion carried unanimously.

DISCUSSION

K. Albinio noted that a conditional approval for a 55-year lease extension was granted in May 2013 and issued to Nomura CDO, LLC. The approval was contingent on a request for assignment by Nomura and the execution of a development agreement. Pandey Hotel Corporation (PHC) was determined a suitable purchaser and submitted a formal request to receive assignment of the three general leases and extend the terms of the leases. Pandey has experience in reviving hotel properties in native communities similar to Hawaii, noted J. Andrews. Pandey, and its parent company C. P. Group (CP) have vast hotels in New Zealand, Fiji, and Australia and is reputed as long-term developers of distressed properties they manage. He anticipates earnest contributions to Kauai tourism and native Hawaiian communities. J. Andrews specified that their decision was based upon the conditions agreed to in May 2013. The Chair then recommended Condition No. 8 be added: **8) And all other terms and conditions as included in the conditional approval, passed by the Hawaiian Homes Commission in May 20, 2013.**

AMENDED MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Gomes to amend the motion to include Condition "8", as stated.

DISCUSSION

The Chair reiterated that final approval reflects the conditional approval of May 2013, as then presented to the purchaser.

ACTION

Motion carried unanimously, as amended.

DISCUSSION

Commissioner Sheehan expressed gratitude to PHC for a verbal commitment to preserving the cultural area, which is sacred to Hawaiians, and feels assured that they could develop the mauka as well as makai areas. J. Andrews named several hotels and properties they are developing, typically in the three and four-star range. New Zealand, Australia, and Fuji properties are branded by Accor. He indicated their corporation is not focused on one style or a brand of hotel. Renovations are completed in-house, to make it profitable. The profits are rolled back into the company to purchase more property. To date, PHW has developed and managed over 30 hotels all over the world. He acknowledged Ray Blouin and C-III (C-III Realty Services LLC), for their efforts in promoting them to the commission. One of the first things he plans to address is the care and management of the sacred site.

Ray Blouin, conveys this as being a historic moment, similar to the moment shared in May 2013, to permit C-III an opportunity to search out a qualified purchaser for the Aloha Beach Hotel. He heartily approves of PHW's worth to move fast, and entrusts them to continue to respect the lands. Commissioner Hopkins concurs as he was able to research PHW's background, as well.

J. Andrews thanked Administrator Linda Chinn and her staff for their efforts in bringing this to fruition.

RECESS 2:22 p.m.

RECONVENE 2:30 p.m.

ITEM NO: F-5

SUBJECT: Status Update on Anahola Solar Project, Anahola, Kauai

RECOMMENDATION

Deputy to the Chair Darrell Young updated the commission on the status of the Anahola Solar Project and conveyed that the department and KIUC (Kauai Island Utility Cooperative) have been in discussions over a pending general lease and are completing its due diligence to moving this project forward, with specific authorization to do so.

MOTION/ACTION

None, for information only.

DISCUSSION

Commissioner Sheehan inquired about meeting the January 2014 deadline. The Chair recommended adjourning to executive session, to address this matter with counsel.

MOTION/ACTION

Moved by Commissioner Sheehan, seconded by Commissioner Hopkins, to adjourn to executive session. Motion carried unanimously.

RECESS 2:32 p.m.

EXECUTIVE SESSION

The Commission convened in executive session pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on the above-mentioned matter.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Sheehan, to reconvene to the regular meeting. Motion carried unanimously.

RECONVENE 3:15 p.m.

RECESS 3:15 p.m.

SITE VISIT

The Commission conducted a site visit at the Nanakuli Village Center, in Nanakuli, at 5:30 p.m., to observe the progress of the Nanakuli Village construction. No deliberation or decision making was conducted.

**HAWAIIAN HOMES COMMISSION
Minutes of December 17, 2013
Meeting Held in Kapolei, Oahu**

The regular meeting was reconvened on December 17, 2013 at 3:25 p.m. at the Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, Kapolei, Hawaii.

PRESENT Jobie M. K. Masagatani, Chairman
Leimana DaMate, Commissioner West Hawaii
Doreen N. Gomes, Commissioner, Maui
J. Kama Hopkins, Commissioner, Oahu
Wallace A. Ishibashi, Commissioner, East Hawaii
Michael P. Kahikina, Commissioner, Oahu
Renwick V. I. Tassill, Commissioner, Oahu

EXCUSED Gene Ross K. Davis, Commissioner, Molokai
Patricia W. Sheehan, Commissioner, Kauai

COUNSEL Craig Y. Iha, Deputy Attorney General

STAFF Dean Oshiro, Acting Administrator, Homestead Services Division
Juan Garcia, Homestead District Supervisor, Homestead Services Division
Puni Chee, Information and Community Relations Officer
Kaleo Manuel, Planner, Planning Office
Nancy McPherson, Planner, Planning Office
John Peiper, Enforcement Officer
Blaine Fergerstrom, Community Development Specialist, Information and
Community Relations Office
Elaine Searle, Secretary to the Commission

AMENDED AGENDA

Commissioner Gomes moved, seconded by Commissioner Hopkins, to convene with Items No. E-1 and H-1, respectively. Motion carried unanimously.

LAND DEVELOPMENT DIVISION

ITEM NO: E-1

SUBJECT: Approval of Settlement of Claims Related to Water Service Lines Ruptures Affecting Sixteen (16) Homesteads on Waiea Place, Piihonua, Island of Hawaii

RECOMMENDATION

Administrator Sandra Pfund, Land Development Division requested that the commission approve a settlement of claims made by sixteen (16) homesteaders, in Piihonua, Hawaii.

MOTION

Moved by Commissioner Gomes, seconded by Commissioner Tassill.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Ishibashi, to adjourn to executive session to discuss legal liabilities associated with the settlement claims. Motion carried unanimously.

RECESS 3:27 p.m.

EXECUTIVE SESSION

The Commission convened in executive session pursuant to Section 92-5 (a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on the above-mentioned item.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Ishibashi, to reconvene to the regular meeting. Motion carried unanimously.

RECONVENE 3:46 p.m.

ITEM NO: E-1(cont.)

AMENDED MOTION/ACTION

Moved by Commissioner Tassill, seconded by Commissioner Kahikina, to amend the motion to include language in the Recommended Motion/Action, page 1, Piihonua, Island of Hawaii, **to authorize expenditure of no more than \$10,000.** Motion carried unanimously.

ACTION ON ORIGINAL MOTION

Motion carried unanimously, as amended.

ITEM NO: H-1

SUBJECT: Transfer of Hawaiian Home Receipts Money at the End of the Second Quarter, FY 2014

RECOMMENDATION

Administrative Services Officer Rodney Lau recommended to the commission to approve the transfer of the entire receipts deposited in the Hawaiian Home Receipts Fund as of December 31, 2013 to the Hawaiian Home Operating Fund.

MOTION

Moved by Commissioner Kahikina, seconded by Commissioner Gomes.

DISCUSSION

R. Lau described the impact this will create should transfer not be approved. The impact will involve 42 staff positions budgeted for \$4.4 million, with \$1.9 million in water systems, hall rentals, and other related activities, and \$1.8 million budgeted from the development of the Operating Fund, which includes policy and consultation, ag supplementation, statistical data, water policy, water rate settings, etc. Currently, there are sufficient reserves in the general fund to meet the department loans budgeted for this year. The department has the support of the governor for \$15 million in the current budget cycle of the budget request, which includes the 130 staff positions funded by the general funds. Of this, 66 positions would be shifted to the administrative account, which could likely mean no Trust-funded positions for next year, as the Operating fund is considered a Trust fund. The Chair conveyed that this would lessen the burden on the Trust fund, as well.

ACTION

Motion carried with six (6) yes votes. Commissioner Hopkins voted (1) against the motion.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

B-1, Germaine Meyers, Re: Item G-1, G. Meyers is concerned with community consultation meetings pertaining to the Oahu Island Plan. Two of the questions asked at the consultation meetings were “What are other topics you are interested in?” and “Do you assist native Hawaiians with suggestions of improvement?” She deemed the manao (ideas) shared by the

community should be included in its report. Up to this point, she has received no response to her comments.

community should be included in its report. Up to this point, she has received no response to her comments. She expressed for a remedy in housing the elderly at Hale Makana in Nanakuli and recommended utilizing Kali Watson's option, to work in other communities.

B-2, Kapua Kamai, Waianae Valley Homestead Community Association, Re: Item G-1, K. Kamai firmly asked that time be available for community input regarding the updated Oahu Island Plan, and is thankful to the commission, for having the matter addressed on Oahu, and not elsewhere. She said the community lacked time to review the plans. She expressed other concerns regarding a questionnaire the department circulated at the community meetings. She preferred for staff to dialogue directly with beneficiaries, to gain their insight on to various matters, rather than having it written on paper.

B-3 Patti Kahanamoku Teruya, Nanakuli Beneficiary, Series 7, Re: Item G-1, P. Teruya spoke against the Oahu Island Plan and deems this plan is being rushed. She conveyed that similar plans took no less than five (5) years to accomplish. She recommended that beneficiaries be afforded additional dialogue before final approval. She opposed the closure of a road in Nanakuli, Series 7, which lacks routing and safety for the school children in the area (figure 8.5, pg 8.8). She urged the commission to review funding for the repair of roads and to engage in lobbying efforts at the legislature.

B-4, Evelyn and Frank Souza, Re: Item J-3, At one time, the Souzas and the Graces were partners, said E. Souza. She emphasized how George Grace continued to make improvements to the Kalaeloa property while ignoring proper permitting regulations. She emphasized that proper permitting is essential, as stated on the DHHL lease for the RP (revocable permit) and for regular payments to be paid when due, otherwise the lease is in jeopardy. She has minutes of meetings with former Chairman Kane, where he distinctly stated "you do not go on the makai side of the property because of its cultural sites." An archaeological company was paid a large sum of money to review a preservation plan while she and her husband were members of S.O.R.T. (Save Our Race Track). The cultural site number 5107 she referred to is now a parking lot.

F. Souza said that they were told by former Land Agent Noel Akamu, that a matting was necessary, to be laid under the dirt, to protect the coral in the area. E. Souza said that 2,200 truckloads of dirt were brought in when only 10 truckloads were necessary. She noted that there was way more dirt than necessary, and she was afraid of violating the permit. E. Souza said that the dirt was eventually sold to another company.

B-5, Patti Silva, Manawalea Riding Center, Re: Item J-1, P. Silva helps run a therapeutic riding school on a parcel leased by Ben Char and Allan Silva. She gave a brief history of their organization, established by Ben Char in 2000, to service clients with special needs. She requested a long-term lease for Manawalea Riding Center (MRC) to continue offering services to their clients and permission to utilize the surrounding lands, to expand its present usage. Material submitted to be made a part of these minutes as Exhibit "A" for Item B-5.

B-6, Michael Kitchens, Volunteer, Kalaeloa Raceway Park, Re: Item J-3, M. Kitchens helped to build the Kalaeloa Raceway Park (KRP) in 2008 along with the Souzas and Graces. He said that Jr. (George) Grace was not interested in a long-term lease, only to prove to others that he could build a raceway track. The Graces continued to fulfill that commitment even after a falling out with the Souzas. People who stayed on assisted with the building of the raceway track, and it was not their intention to cause irreparable harm to any cultural sites. The bunker sites were previously cleared by the military, prior to KRP's use. He indicated that this facility is the last and best hope on the island, for hosting this type of motor sport. The Graces are building this raceway park to foster a community of family, and M. Kitchens accused the department as being discriminatory, corruptive, and uncommunicative, by holding the raceway hostage. He deems the raceway is a safe place for youth to play, not for a money profit venture.

B-7, Polly Grace, Re: Item J-3, Polly "Granny" Grace, from Kaena to Lanikuhonua gave a brief history of "Maunakapu" a family name, referencing the area below Makakilo. P. Grace testified on behalf of her son, George Grace, that Kalaeloa was formerly an entertainment ground, where fishermen celebrated their catch. She said the iwi (sacred bones) are in an area across the street from KRP (Kalaeloa Raceway Park), and not a part of the raceway park.

B-8, Ola Au, Re: Item J-1, Ola Au testified that Ben Char allowed him a place to store his trucks on the property that he was leasing from DHHL. Since he was unable to contribute in rent, he made up by offering his trucks and services to maintain the property. He was issued a trespassing citation on November 12, 2013, to vacate the premises by November 27, 2013. He asked for additional time, to relocate his equipment and trucks.

B-9, Sabrina Grace, Re: Item J-1, S. Grace appealed on behalf of Ola Au, a native Hawaiian, who requires a place to park his trucks. She noted that Ola Au has contributed greatly with improvements to the Waimanalo lease property. She welcomed visitors to the site, to witness, firsthand, the improvements on this property, and the joy it has rendered to handicapped children. **Re: Item J-3,** S. Grace testified she has been involved with the Kalaeloa Raceway Park (KRP) since 2010, along with her brother, George. Dealing with the department has been harsh, especially with continual complaints lodged by the Souzas (former partners) against them. Much time, effort, and money have been spent on this project, and she wants resolution. She, along with her brother, is waiting for the department to respond. She requested additional time to speak on how badly the department has treated them. They will seek other means to voice their concerns and may seek resolution with the Department of Interior.

B-10, Carroll Cox, Re: J-3, C. Cox expressed dissatisfaction in his dealings with DHHL in acquiring information to enable him to assist native Hawaiians. He said that because he is perceived as the enemy of the department, he plans to behave in that capacity. He spoke about his radio show, which relates to environmental racism and injustice, and has exposed, in recent newspaper articles, inconsistency and corruption within DHHL. He pointed out the disparity between George Grace and a lease assigned to Evelyn Souza, and George Grace's attempt to fulfill a dream of a raceway track. He conveyed that E. Souza runs a paint company, which he filed an environmental complaint against. The raceway park's permit was rescinded after a

complaint was filed by the Souzas regarding illegal activity. C. Cox pointed out inconsistencies with other companies, such as PASHA, who leases land from the department, and sub-leases to other companies, and Close Construction and Road and Highway Builders, who moved onto DHHL land, without proper permitting. C. Cox proposed to continue his mission to seek out individuals who are willing to sue the department because of their inability to achieve fairness, justice, and environmental racism.

G - PLANNING DIVISION

ITEM NO: G-1

SUBJECT: Adoption of Oahu Island Plan

RECOMMENDATION

Planner Kaleo Manuel recommended that the Hawaiian Homes Commission adopt the Oahu Island Plan and land use designations identified by the area on the attached Exhibit "D", and authorize dissemination of the Oahu Island Plan.

DISCUSSION

Commissioner Hopkins said that beneficiaries expressed concern over the Oahu Island Plan being rushed, and they would favor additional time to review the plan. He recommended deferral until January 2014, to allow beneficiaries additional time to review its overall effects. Commissioners commended the Planning Office staff on the amount of work achieved in such a short period of time and are in agreement to extend the courtesy for an additional month.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina to defer this matter until the January 2014 agenda. Motion carried unanimously.

DISCUSSION

K. Manuel expressed that the contract with PBR Hawaii expires at the end of December, with no option to extend. Any changes to the planning process or the documents will require additional funding and/or internal department time. K. Manuel also conveyed that individual comments may be submitted to staff for review. Commissioner Hopkins entertained the thought of providing beneficiaries additional time, to ensure they are included in the decision making.

J - GENERAL AGENDA

ITEM NO: J-1

SUBJECT: Request to Address the Commission – Ben Char

MOTION/ACTION

None, for information only.

DISCUSSION

Ben Char, former permittee, shared how he has assisted people off the streets and repaired equipment on his revocable permit lease, ever since receiving the lease 20 years ago. He accomplished this without money. He deems himself as being unjustly punished. His former partner and friend, Allan Silva, recently negotiated with the department for personal gain. He has not succumbed to this type of behavior and is requesting to continue to serve others. A handshake has always been a sign of commitment, and yet, he now finds himself in a predicament for non-compliance of his revocable permit. He believes the matter should be resolved between him and his partner and puts blame on his partner for failure to upkeep the rent payments.

B. Char indicated that seven (7) checks were not cashed by the department for rent payments. He proffered that everything he has accomplished has been for his people. He inquired as to how he can continue to maintain the RP. The Chair queried B. Char whether he received a violation notice from the department and whether he complied with the charges. He confirmed to have received the notice and requested support to maintain the RP. The Chair noted that the department is reviewing all RP's, to assure compliancy, and staff will oblige in assisting those who are still non-compliant. She will follow up on the issue on the matter of the uncashed checks. In the meantime, the Chair encouraged B. Char to coordinate with Deputy D. Young on his compliance issues.

Note: Commissioners Davis and Sheehan are excused from the meeting.

ITEM NO: J-2

SUBJECT: Request to Address the Commission – Nowel Dudoit-Alana, Kalaka Nui, Inc.

MOTION/ACTION

None, for information only.

DISCUSSION

Owner Nowel Dudoit-Alana, Kalaka Nui, Inc. appeared before the commission to express her gratitude to the commission for the three (3) acres awarded her, to conduct a recycling business in Kalaeloa. She pointed out that she has waited several years for this lease award.

Note: Commissioners Gomes and Ishibashi are excused from the meeting.

ITEM NO: J-3

SUBJECT: Request to Address the Commission – George Grace, Kalaeloa Raceway Park

MOTION/ACTION

None, for information only.

George Grace appeared before the commission and complained of the disrespect he has received by the lack of quorum each time he has appeared before the commission albeit all Oahu commission members are present. He pointed out that the complaints presented today by the Souza have been addressed and proven wrong. Commissioner Tassill was cautioned by counsel on making a deliberation, as this could result in a violation of the sunshine law with a lack of quorum that may disqualify his vote, at a future meeting. The Chair reminded everyone that the “J” agenda is to provide an opportunity to receive testimony, listen to concerns, and ask questions, yet not make decisions.

Commissioner Tassill recommended an earlier time for G. Grace to appear, however Deputy AG Iha affirmed that a quorum is necessary for changes to any agenda. Commissioner Hopkins recommended that an errant water bill be remedied, to which G. Grace said it was not a problem. Commissioner Hopkins thanked the Grace for appearing, and expressed how an outstanding water debt and a City and County permit issue may resolve into a win-win settlement. G. Grace expressed his frustration in dealing with new staff each time a remedy was being presented. He felt publicly humiliated after a newspaper article exposed him for lack of insurance that resulted in a loss of sponsorships. He accused the department of losing his paperwork. He is seeking resolution to all of these issues that this lease has created for him.

ITEM NO: J-4

SUBJECT: Request to Address the Commission – Nalayne Kahanaoi


MOTION/ACTION

None, for information only.

Attorney Lehua Kinilau represented Nalayne (Nina) Kahanaoi, who has been seeking resolution for a long-standing litigation dispute regarding her father’s (William Kahau) Kalawahine homestead lease on Oahu. L. Kinilau introduced material to be made a part of these minutes as Exhibit “A” for Item No. J-4. She highlighted discrepancies of the lease: (1) Designation of successor before the lease was completed; (2) DHHL informed W. Kahau in 1976 that a legal

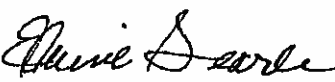
ADJOURNMENT 6:22 p.m.

Respectfully submitted:



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission


Prepared by:



Elaine G. Searle, Secretary
Hawaiian Homes Commission

APPROVED BY:
The Hawaiian Homes Commission
At Its Regular Monthly Meeting On

May 19, 2015



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission