

**HAWAIIAN HOMES COMMISSION**  
**Minutes of February 23, 2016**  
**Meeting held in Kapolei, Oahu**

Pursuant to proper call, the 672nd Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, Kapolei, Hawaii, beginning at 9:20 a.m.

**PRESENT** Jobie M. K. Masagatani, Chairman  
David B. Ka'apu, Commissioner, West Hawai'i  
Gene Ross K. Davis, Commissioner, Moloka'i  
Doreen N. Canto, Commissioner, Maui  
William Richardson, Commissioner, O'ahu  
Wallace A. Ishibashi, Commissioner, East Hawaii  
Michael P. Kahikina, Commissioner, O'ahu  
Wren Westcoatt, Commissioner, O'ahu

**EXCUSED** Kathleen P. Chin, Commissioner, Kaua'i

**COUNSEL** Craig Y. Iha, Deputy Attorney General

**STAFF** William J. Aila Jr., Deputy to the Chairman  
Niniau Simmons, NAHASDA Manager  
Paula Aila, Hale Manager  
Hokulei Lindsey, Administrative Rules Officer  
W. Kamana'o Mills, Special Assistant  
Leah Burrows-Nuuanu, Secretary to the Commission  
Francis Apoliona, Compliance Officer  
Dean Oshiro, Acting Homestead Services Division Manager  
Norman Sakamoto, Development Officer  
P. Kahana Albinio, Acting Property Dev. Mgr., Income Property Branch  
Kaleo Manuel, Acting Administrator, Planning Division  
Shelly Carreira, Land Agent, Land Management Division  
Karen Lucero, Homestead Assistant, Homestead Svc. Division  
Stewart Matsunaga, Master Plan Community Dev Mgr.  
Nancy McPherson, Planner, Planning Division  
Juan Garcia, Homestead District Supervisor  
Rodney Lau, Admin. Services Office  
Ku'uwehi Hiraishi, Info. Specialist, Information and Community Relations

**I. ORDER OF BUSINESS**

**CALL TO ORDER**

Chair Masagatani called the meeting to order at 9:20 a.m.

**ROLL CALL**

Eight (8) members were present at roll call. Commissioner Chin was excused.

**APPROVAL OF AGENDA**

The minutes for the meeting of July 2015 were distributed for Commissioner's review and approval at the next commissioner meeting.

MOTION/ACTION

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

**II. ITEMS FOR DECISION MAKING**

**CONSENT AGENDA**

**HOMESTEAD SERVICES DIVISION**

- D-2 Approval of Consent to Mortgage (see exhibit)**
- D-3 Approval of Streamline Refinance of Loans (see exhibit)**
- D-4 Approval of Homestead Application Transfers / Cancellations (see exhibit)**
- D-5 Commission Designation of Successors to Application Rights – Public Notice 2013 and 2014 (see exhibit)**
- D-6 Reinstatement of Deferred Application – WILLIAM W. GRACE**
- D-7 Ratification of Designations of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds (see exhibit)**
- D-8 Approval of Assignment of Leasehold Interest (see exhibit)**
- D-9 Approval of Amendment of Leasehold Interest (see exhibit)**
- D-10 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)**
- D-11 Commission Designation of Successor – NELLANETTE Y. ARAKI, Lease No. 11975, Lot No. 17116, Kaupe‘a, O‘ahu**
- D-12 Cancellation of Lease – JOHNNY KAMAHELE, Lease No.12683, Lot No. 25, Pana‘ewa, Hawai‘i.**
- D-13 Commission Designation of Successor – LYNNETTE L.H. HAVILI, Lease No. 9486, Lot No. 48, Wai‘ehu Kou II, Maui**
- D-14 Commission Designation of Successor to HERBERT ANAKALEA, Residence Lease No. 9234, Lot No. 21, Kani‘ohale, La‘i ‘Ōpua, Kailua-Kona, Hawai‘i**
- D-15 For Information Only – Request for Relocation – JAMES M. DUVAUCHELLE, SR., Pastoral Lease No. 7876, Lot No. 8, Ho‘olehua, Moloka‘i**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion to approve agenda items listed on the Homestead Services Division Consent Agenda.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Davis, to approve agenda items listed on the Homestead Services Division Consent Agenda. Motion carried unanimously.

**REGULAR AGENDA**

**OFFICE OF THE CHAIRMAN**

**ITEM C-4 Amendment to HHC 2016 Calendar- April 2016**

RECOMMENDED MOTION/ACTION

Deputy Director William Aila Jr. presented the following. Motion: to approve the Amended 2016 HHC Calendar.

## DISCUSSION

The Department proposed a change to the Hawaiian Homes Commission meeting schedule, specifically the April meeting. The proposed new meeting date is April 11 & 12, which will allow the Commission to meet before the legislature's 2<sup>nd</sup> crossover scheduled for April 14<sup>th</sup>.

## MOTION/ACTION

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

## **LAND MANAGEMENT DIVISION**

### **ITEM F-1 Issuance of License to Kapolei Hawaii Property Company, LLC, Kapolei, Island of O'ahu, of access rights granted by State Department of Transportation, TMK No.(1) 9-1-017:108 (por.)**

#### RECOMMENDED MOTION/ACTION

Acting Land Management Administrator Peter "Kahana" Albinio presented the submittal. Motion: that the Hawaiian Homes Commission (HHC) approve the issuance of a license to Kapolei Hawai'i Property Company, LLC, ("KHPC") as Licensee, for limited vehicle access rights for egress and ingress to its shopping center complex pursuant to the GRANT OF LIMITED VEHICLE ACCESS RIGHTS (NON-EXCLUSIVE) (KUALAKAI PARKWAY) fully executed on December 30, 2015, by and between the State of Hawaii- Department of Transportation as "GRANTOR" and the Department of Hawaiian Home Lands, by its Hawaiian Homes Commission as "GRANTEE" ("DOT Grant of Access")

#### MOTION/ACTION

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

## **PLANNING OFFICE**

### **ITEM G-1 Declare a Finding of No Significant Impact (FONSI) for a Final Environmental Assessment (FEA), Kailapa Community Association Community and Resource Center / Emergency Relief Shelter, Kawaihae, South Kohala, Hawai'i, TMK (3) 6-1-010: 008**

#### RECOMMENDED MOTION/ACTION

Acting Planning Manager Kaleo Manuel and Planner Andrew Choy presented the submittal. Motion: that the Hawaiian Homes Commission (HHC) declare a Finding of No Significant Impact (FONSI) based on the information provided in the Final Environmental Assessment (FEA) for the proposed Kailapa Community Association Community and Resource Center/Emergency Relief Shelter.

#### MOTION

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

#### DISCUSSION

A. Choy summarized that at the December 14, 2010, meeting, the Hawaiian Homes Commission approved the issuance of a 50-year license (License 751) to the Kailapa Community Association (KCA) for a 14.33 acre parcel, TMK (3) 6-1-010:008, at Kawaihae, Island of Hawaii, for the purposes of constructing and operating a community resource center for Hawaiian homestead

communities in Kawaihae and the West Hawaii Region (Exhibit A). Unfortunately, the Kailapa Community Association did not receive a \$250,000 grant for planning and pre-development work under the DHHL Kulia I Ka Nuu Program as the program was discontinued by the Hawaiian Homes Commission (HHC) in January 2012. Despite lack of financial assistance from DHHL, the KCA has successfully obtained grant funding.

Various government agencies at the federal, state, and county levels were asked to comment on the DEA. Revisions to the DEA were made based on the comments received. Any changes that were made in response to substantive comments received are reflected in the FEA. A. Choy introduced project consultant Bobby Hall who helped with the planning and implementation of the Kailapa Community Center Project.

Commissioner Kaapu asked if the Department looked at the cost of connecting to the County water system or the possibility of digging a well on the property.

K. Manuel stated, in 2012 the Commission set aside \$100,000 to do a Kawaihae water assessment which was recently finalized by R.M. Towill. The assessment investigated two existing wells that the Department has, mauka of the homestead community, and looked at other options to get water to our homestead community. One option was to extend existing county water lines from the Kawaihae industrial subdivision, across Honokoa Gulch, to our homestead community. The problem is that the Department of Water Supply's response to DHHL every time the recommendation is made, is that DHHL will need to provide an additional source of water. We would have to add more water into the system if we extended it across the Gulch.

The assessment also found that based on the existing wells and the salinity of the wells, DHHL could put these wells into production to service our existing homestead community, but it would require minimal or some osmosis to desalinate the water.

The County is trying to develop a Lalamilo well next to their existing tank in Waimea, which will hopefully add capacity and source. DHHL's comment on the County's draft EA is to include DHHL because DHHL needs water in Kawaihae. If the Department can cost share in the development of that well, maybe DHHL can receive water credits that it could use if the system is extended.

Commissioner Kaapu asked if staff looked at Kahua Ranch as an option. Currently, K. Manuel replied that Kahua Ranch has a month-to-month Revocable Permit (RP) with the Department and pulls water from the Kohala mountain watershed through the Kehena ditch system. The Department has done preliminary research on a ditch system; but it is still a conceptual discussion. Such a system would involve using water from reservoirs from the three puu located mauka and allowing gravity to feed the system downhill. The Kailapa Association has asked to have it included in the Kawaihae water assessment.

K. Manuel stated that ditch system was identified as a potential long-term solution but in the short-term they decided to focus on the two wells for redundancy and/or independence from the Kohala Ranch system. DHHL pays almost \$8 per 1,000 gallons to Kohala Ranch now. The Department would be paying about the same amount to desalinate the water from within the existing wells. Staff intends to look at both options. Kohala Ranch is always looking at redundancy because they only have a well. If something happens to that well, we would all be in trouble.

A well on the property could be a long-term solution for water for the project but it is very near to the shore so salinity will become an issue eventually. It probably could not be used for consumption but maybe used for irrigation. The water demands based on the project buildout is

minimal, at 5,000 to 6,000 gallons per day. It is probably not worth putting in the money for the well, but in the long-term, it could be something they might want to consider.

ACTION

Motion carried unanimously.

**LAND MANAGEMENT DIVISION**

**ITEM F-2 Ratification of Actions taken by Chairman, Hawaiian Homes Commission, Statewide**

RECOMMENDED MOTION/ACTION

Acting Land Management Administrator Peter “Kahana” Albinio presented the submittal. Motion: that the Hawaiian Homes Commission ratify the consents and approvals granted by The Chairman, Hawaiian Homes Commission.

Commissioner Kaapu asked that in the future, percentages in the submittal be quantified in dollar amounts. He stated concern over whether the Department is receiving a fair market return. Is the Department receiving all the revenue that it can? Deputy AG Iha stated he could provide a summary after reviewing the documents more carefully.

Commissioner Kahikina asked if the Department is liable in the same way it is when a beneficiary defaults on a HUD loan. Deputy AG Iha stated on a general lease the lender could foreclose and sell the lease. Whoever buys the lease is going to have to attorn to the Department as the new tenant for any outstanding lease rents that are due.

MOTION/ACTION

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

**III. ITEMS FOR INFORMATION/DISCUSSION**

**OFFICE OF THE CHAIRMAN**

**ITEM C-1 For Information Only – Master Plan and Environmental Review Record for Redevelopment of the Bowl-O-Drome Site, Mō‘ili‘ili, O‘ahu, 820 Isenberg Street, Honolulu, Hawai‘i, TMK (1)2-7-008: 18 & 20**

RECOMMENDED ACTION

None. For information only.

DISCUSSION

NAHASDA Manager Niniau Simmons presented the following Environmental Review. The Department is in the preliminary stages of planning and has brought on PBR, a consultant, to complete the Environmental Review process. This is to provide a status update on the planning process. The state EA and the federal Environmental Record are being used to determine eligible activities.



## **Kamo‘o‘ili‘ili**

### Location

- Address: 820 Isenberg Street Honolulu HI 96826
- Mokupuni: O'ahu
- Moku: Honolulu (Kona)
- Ahupua'a: Waikiki
- 'Ili: Mo'ili'ili\*

### Project & Objective

Objective: Work toward developing new housing alternatives in urban Honolulu for Trust beneficiaries

- Master Plan a broad program of mixed-use concepts
- Advance environmental review to minimize redevelopment

### Uncertainties

- Integrate developer selection with environmental review

### Opportunities

- Proximate to services needed by kupuna
- Easy access to employment centers of Waikiki and Honolulu
- University of Hawai'i at Mānoa campus neighborhood
- Transit Oriented Development-% mile from planned rail extension
- Potentials for partnerships in neighborhood revitalization
- Next door to Stadium Park

Commissioner Richardson asked the Department to look into the design-build system that state started to use for new buildings. Developers find it to be the most reasonable and expeditious way to build on sites like this. There are elderly, law, and medical school programs that would love to be part of a development like this. The elderly programs would mesh very well with kupuna housing.

Commissioner Kahikina asked how the community is being engaged in the process. N. Simmons stated when the O'ahu Island Plan was being developed one of the themes from the Papakōlea community was kupuna housing. Since the area is zoned for industrial use, any change in use will go to beneficiary consultation before anything is finalized.

Chair Masagatani asked if the project will trigger an Environmental Impact Statement (EIS). N. Simmons stated because of the location of the project an EIS will likely be needed.

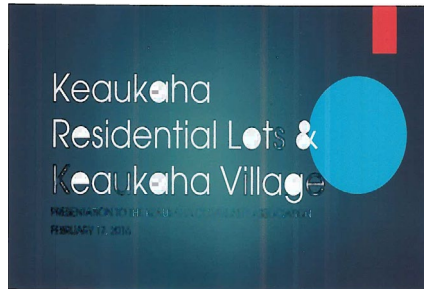
**ITEMC-2 For Information Only - Draft Environmental Assessment for Keaukaha Residential Lots Rehabilitation and Infill New Construction, Keaukaha, Hawai'i, TMK (3)2-1-20, -21, -22-, -23, and -24, various parcels**

RECOMMENDED ACTION

None; For information only.

DISCUSSION

NAHASDA Manager Niniau Simmons presented the following: Draft Environmental Assessment (DEA) for Keaukaha Residential Lots Rehabilitation and Infill New Construction, Kaukaha, Hawai'i, TMK (3)2-1-20, -21, -22, 23, and -24, various parcels.



- Parcels: to enable leasing to additional beneficiaries on the wait list; additional density created by subdivision; would be limited to lots within DHHL's inventory with minimum resulting lot size at 10,000 sq. ft.
- Older existing homes: to rehabilitate older homes for qualified leasing; rehabilitation would include interior and exterior modifications, as necessary. For those older homes that do not meet HUD's requirements for safe /decent housing, the project would involve demolition and replacement with new construction approximately in the same footprint.

There are approximately 420 existing residential lots within the site totaling approximately 285 acres, lots ranging in size from .36922- 1.214 acres. The potential new vacant lots total 49 lots. Other existing homes where the household income is less than 80% of the median household income could be eligible for rehabilitation grants.

Next steps for overall project implementation

In addition to the completion of the Final Environmental Assessment (FEA) and HHC declaration of a Finding of No Significant Impact (FONSI) for the project in accordance with Hawaii Revised Statutes Chapter 343, the following actions will need to be completed for the implementation of the project:

- A federal EA meeting the U.S. Department of Housing and Urban Development (HUD) and National Environmental Policy Act (NEPA) requirements is being prepared concurrently with the state Chapter 343 EA;
- Upon HHC's approval of a FONSI for this project, the department will publish a FONSI in the Star Advertiser, Hawaii Tribune Herald, and West Hawaii Today;
- As the projects are readied, publish notices to request release of funds and submit requests for release of funds to HUD;
- For lots currently in DHHLs inventory, the lots will be available for award when the vacant lot improvements or turnkey new homes have been completed.

Conclusion

- The DEA for Keaukaha Residential Lots Rehabilitation and Infill New Construction has been completed;
- The 30-day mandatory public review and comment period will begin March 8, 2016 and end April 8, 2016;
- Based on the findings of the DEA, staff anticipates a FONSI for the various NAHASDA rehabilitation and infill affordable housing projects within the Keaukaha project area;
- Staff will present the FEA to the HHC in May 2016 and will ask for the HHC for a FONSI declaration.

Why are we here?

- Notify the community of what is being proposed

Commissioner Ishibashi asked if the noise mitigation renovations will cost the homeowners along the flight line substantially more money. N. Simmons stated NAHASDA is already looking to help with the changes that are needed so that the impacted lots can meet the county permitting standards and be eligible for FAA funding that can help to mitigate the noise impact. The type of insulation needed varies, depending upon how close a home is to the runway.

Commissioner Richardson asked if the homestead association in Keaukaha is functional. N. Simmons stated Keaukaha is one of the more stable homestead associations headed by Pat Kahawaiolaa.

Herring Kalua testified that the Keaukaha community celebrated its 90<sup>th</sup> anniversary last year. He also indicated that the sewer issue in Keaukaha has been around since he was a little boy. He further stated that problems occur when folks do what they want to do instead of what the Commission outlines.

### **ITEM C-3 For Information Only – Environmental Review Record for Keaukaha Village, Keaukaha, Hawai‘i, TMK (3)2-1-011: 005**

#### RECOMMENDED ACTION

None; For information only. NAHASDA Manager Niniau Simmons presented the following Draft Environmental Assessment (DEA). The purpose of this informational briefing is to update the HHC on the initiation of this project.

The project objective is to reestablish a gathering area at Keaukaha Beach Park, consisting of a pavilion surrounded by traditional food gardens. Other components of the project include a renovated restroom, imu, and possibly a certified kitchen. A few other smaller pavilions may also be added to accommodate several smaller gatherings. This project is listed as a priority project in the Keaukaha regional plan (2010).

#### Next steps

The anticipated immediate next steps are as follows:

1. A community meeting was held on February 17, 2016 with the Keaukaha Homestead Association.
2. Engage the technical subcontractors to begin the baseline studies.
3. Initiate consultations under section 106 and FEMA.
4. Prepare environmental documents and process.
5. Submit DEA to HHC for information and FEA for FONSI determination.
6. Request release of funds.
7. Initiate the design phase.



8. Bid, award, construct.

Conclusion

- The Keaukaha Village project is the highest priority of the Keaukaha Regional Plan.
- The location within the special flood hazard zone requires special design considerations.
- The federal and state environmental requirements will run concurrently and include HRS Chapter 343, HRS Chapter 6 E., NEPA, Section 106, and FEMA.

**HOMESTEAD SERVICES DIVISION**

**ITEM D-1 HSD Status Reports**

Exhibits:

- A – Homestead Lease and Application Totals and Monthly Activity Reports
- B – Delinquency Report
- C – DHHL Guarantees for USDA-RD Mortgage Loans
- D – DHHL Guarantees for FHA Construction Loans

Chair Masagatani asked if Commissioners had any questions regarding the information provided in submittal Item D-1.

**PLANNING OFFICE**

**ITEM G-2 For Information Only – South Point Management Plan Update, Ka‘ū, Hawai‘i**

RECOMMENDED ACTION

None. For information only. South Point Management Plan Update, Ka‘ū, Hawai‘i  
Acting Planning Manager Kaleo Manuel and Planner Andrew Choy presented the update.

The purpose of this informational briefing is to update the Hawaiian Homes Commission (HHC) on the status of the Department of Hawaiian Home Lands (DHHL) South Point Management Plan and receive feedback and direction from the HHC.

NEXT STEPS FOR SOUTH POINT RESOURCE MANAGEMENT PLAN COMPLETION

- Incorporate feedback and guidance from the HHC received today into the plan document;
- Complete a public review draft – March 2016;
- Conduct one or two more beneficiary consultation events on the Public Review Draft Management Plan – March or April or 2016;
- Submit beneficiary consultation report to the HHC on the Public Review Draft Management Plan – April or May 2016;
- HHC approval of Final Management Plan – May or June 2016;

Commissioner Ishibashi thanked the staff for their hard work. His concern is regarding security especially for the iwi kupuna and the other wahi pana at South Point. It is unpopular to close the road, but it must be done to protect the resources on DHHL’s land. He appreciated the ecotourism opportunities staff put forward for the beneficiaries in the Ka‘ū community.

Commissioner Kaapu indicated that bringing businesses that run the non-permitted shuttles into compliance will be a challenge; consequently, contracting with them will be a challenge. He asked if the road would require an Environmental Impact Statement (EIS). K. Manuel agreed that an EIS may be necessary. Getting control of the management is a short-term goal. Going forward there is a lot of opportunity for guided tours, but how Mahana Bay should be handled is

the question. K. Manuel stated staff wants to bring the item back to Hawai‘i Island several more times before bringing the Final Plan to the Commission.

Commissioner Richardson asked to see a proposed budget for the security plan because he thinks it will be very expensive.

Commissioner Kahikina thanked staff and acknowledged the beneficiary consultation work that was done.

Commissioner Kaapu stated the boat ramp at Kalalea Bay is another major concern. For area fishermen, their livelihoods depend upon being able to launch from the boat ramp. K. Manuel stated it is a point of contention because it is the only boat ramp between Hilo and Miloli‘i. The fishermen have not attended the meetings thus far.

K. Manuel stated there is an urgency from the community to “stop talking and do something.” There are some short-term recommendations that can be implemented quickly to give beneficiaries some assurance that the Department is actively doing something.

Commissioner Ishibashi asked for an update on the unmanned glider project proposed for the area. A. Choy stated the project is called the University of Alaska Unmanned Vehicle at South Point. The project is going through the Section 106 process because a FAA permit is required which triggers Section 106. It should be completed in the next several months.

## **GENERAL AGENDA - Requests to Address the Commission**

### **ITEM J-1 Patrick Kahawaiolaa – Pu‘u O‘o/Humu‘ula Projects**

P. Kahawaiolaa introduced a proposal for the use of the Āina Mauna Legacy Lands. The Keaukaha Community Association (KCA) first became acquainted with the Āina Mauna lands in 2008. Seventeen kupuna from Keaukaha and other East Hawai‘i communities went with DHHL employees Kahana Albinio and Mike Robinson on a huaka‘i to view the devastation gorse was causing in Humu‘ula and Pi‘ihonua. They learned that the feral cattle were the main cause of the spreading of the gorse and removing them was paramount to the Department. The kupuna gathered other East Hawaii leaders who felt it was an obligation and duty to empower their respective communities to find ways to create the opportunity for economic development and self-sufficiency on these trust lands. He is before the Commission to request a Right of Entry (ROE) and/or Permit to use the parcel known as the Humu‘ula Sheep Station and surrounding acreages as a staging area and security point for ingress and egress into trust property. They provided a comprehensive proposal earlier and are ready to move forward if the Department is prepared. KCA has several native Hawaiian beneficiary tour companies prepared to shuttle people to the summit of Mauna Kea. The Sheep Station can serve as a point to educate the tourist about the protocols, history, and stories of Mauna Kea, Humu‘ula and Pi‘ihonua. Hot and cold food could be provided by native Hawaiian businesses.

When the Department decides how it wants to proceed on the ‘Āina Mauna Legacy Lands, the Keaukaha Community Association is ready to step up to the plate. They support beneficiary consultation, although he felt that sometimes the general community’s input overshadows the input of the beneficiaries.

Commissioner Kaapu stated he agreed with P. Kahawaiolaa’s view of beneficiary consultations. He is looking at what can be done to ensure that beneficiary input is the focal point rather than the input of the community in general.

Commissioner Ishibashi asked for an update on the audit of the existing contract vendor for feral cattle removal from Humu‘ula. M. Robinson stated they stopped requesting payment for cattle at the end of 2014. The cattle started getting into the lower inaccessible areas and it was not possible for the licensees to book slaughterhouse times for less desirable cattle. The decision was made to remove the fees on the animals being removed. There was concern that the licensees were getting meat and the beneficiaries were not, so a clause was added to the license that at least two animals per month could be distributed to the communities. Keaukaha Community Association stepped up, accepted the animals, and butchered them.

Commissioner Ishibashi stated the licensees made money off the cattle they removed from the mountain. Fees to DHHL were removed and then they profited from the cattle. If there are others willing to pay \$100 per head, why are we giving it away for free.

Chair Masagatani asked for a ten-minute recess.

**RECESS** 12:20 p.m.

**RECESS** 12:40 p.m.

### **III. ITEMS FOR DECISION MAKING**

#### **LAND MANAGEMENT DIVISION**

##### **ITEM F-3 Approval to Issue Right of Entry, State of Hawai‘i, Department of Land and Natural Resources, Kahikinui, Maui, TMK: (2) 1-9-001:003 (por.), 007 (por.) & 011 (por.)**

###### RECOMMENDED MOTION/ACTION

Acting Planning Manager Kaleo Manuel, Acting Land Management Administrator Peter “Kahana” Albinio, Planner Julie Cachola and Land Agent Shelly Carreira presented the submittal. Motion: that the Hawaiian Homes Commission (HHC) grant its approval to issue a Right of Entry (ROE) permit to the State of Hawaii, Department of Land and Natural Resources, herein referred to as PERMITTEE, for the purpose of constructing approximately 3.6 miles of 7 feet high ungulate-proof fence and to conduct feral ungulate control activities for the protection and restoration of watershed forest at Kahikinui, Maui, identified by TMK (2) 1-9-001:003 (por.), 007 (por.) & 011 (por.)

###### DISCUSSION

Approval of the ROE is subject to, but not limited to, the 19 conditions outlined in the submittal. Kahikinui was part of the original Hawaiian Home Lands trust, which was set aside in 1921, for the rehabilitation of native Hawaiians, by the Hawaiian Homes Commission Act (HHCA). The Kahikinui tract is 25,000 acres, the second-largest tract of land in the trust. It is the only moku in the trust, comprised of eight (8) ahupua‘a, and is significant for the island of Maui since it includes 75% of the trust lands on Maui. Unfortunately, the integrated resources of the Kahikinui forest have been degraded and deforested through over a century of cattle ranching and a thriving feral ungulate population. Today the forest occupies only 5% of its former extent. Most of these remaining fragments are located on Hawaiian Home Lands. Despite the degradation of forest resources, Kahikinui remains an ideal candidate for forest restoration due to the absence of shade-adapted forest weeds and the continued resilience of koa trees, one of the more robust and quick-growing of native tree species, capable of spontaneous recruitment from seeds long stored in soil seed banks.

Andrea Buckman from the Leeward Haleakalā Watershed Restoration Partnership thanked the Commission for the opportunity to work to protect the watershed.

Commissioner Davis asked that the beneficiaries be included as a resource. On Moloka‘i, the beneficiaries are informed of every step in any kind of eradication project. It is important to get the community involved and allow subsistence hunters to gather what they need. A. Buckman stated salvage efforts for the meat has been worked out with the Associations whenever possible.

Chair Masagatani asked if the ohia lehua blight is a problem in the Kahikinui forest. A. Buckman stated the blight has not been seen on Maui yet, and they have a team watching the forest closely.

MOTION/ACTION

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

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Richardson to convene in executive session pursuant to Section 92-5(a)(4), HRS. Motion carried unanimously.

**IV. EXECUTIVE SESSION**

1:04 p.m.

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

1. Update on Nelson Case- Richard Nelson, III et al., v HHC, Civil No. 07-1-1663
2. Kūhiō Award Concept, Questions, and Issues.

**EXECUTIVE SESSION OUT**

3:00 p.m.

**GENERAL AGENDA (continued)**

**ITEM J-5 Eric S. Knight – Transfer Lease Request**

E. Knight read a letter requesting an exception to allow for a lease transfer, which he was denied because it was discovered that he is not 50% Hawaiian. His application for a homestead was filed "in good faith" and he provided all the requested documents available at that time. He has been on the list of applicants for a homestead for many years and was extremely excited about becoming a lessee. He has lived in Kaupē‘a for nearly 9 years. He submitted a request for transfer of lease; and he was told it was denied because his blood quantum was being questioned. It has been nearly two years since this occurred, and it has created a financial hardship for him. He is worried about securing his retirement and the well-being of his wife who is not Hawaiian. He wants to transfer the lease to his mother who is 50% percent Hawaiian. He feels it was an oversight on the Department’s part and he shouldn’t be penalized. He wants to make it right by transferring the lease to his mother who is qualified.

Commissioner Richardson asked if his mother is a lessee. E. Knight stated his mother is not a lessee, but she is an applicant.

Commissioner Kahikina asked why Mr. Knight isn’t allowed to transfer the lease to his mother if she is 50% Hawaiian? Deputy AG stated the Commission should recuse itself into an Executive Session to continue the discussion.

Chair Masagatani stated Mr. Knight previously requested a contested case hearing but has since changed his mind. She asked staff and Deputy AG Iha to follow up with Mr. Knight to look for a remedy to the situation that is allowable under the circumstances. E. Knight thanked the Commission for hearing his testimony.

**ITEM J-10 George Matthews – Waitlist Priority Transfer**

Sweets Matthews, mother of George Matthews, attended on his behalf. S. Matthews explained that her daughter Lynn Suber, from Hawaii Island, was notified she was in-line to receive an award. Her daughter couldn't afford it at the time, so she gave the award to her brother, George Matthews. Her daughter was never told that she would go to the bottom of the list. She thought they were trading places on the list. They called Applications Officer Kana'i Kapeliela to explain the situation and asked K. Kapeliela for an e-mail documenting their discussion in writing. The e-mail they received included items that were not discussed.

Chair Masagatani asked HSD Manager Dean Oshiro to explain the circumstances. D. Oshiro explained that L. Suber accepted a pre-owned home and signed the award. The Commission also approved the award. L. Suber signed the loan for the award and subsequently transferred the lease to her brother G. Matthews. Chair Masagatani asked if L. Suber was apprised of the fact that once a beneficiary is taken off the waitlist she would then go to the bottom of the list if she wanted to reapply. D. Oshiro stated that there was an understanding that L. Suber would succeed to her deceased father's application rights. L. Suber is listed at her father's application date, but the Administrative Rules require that when it comes to a lease award all applicants that have not yet received a lease award have priority over someone who already received an award.

Chair Masagatani explained to S. Matthews the Administrative Rules require that before a lease is given to someone who has already received a lease, it must be offered to those who have not had a lease.

S. Matthews asked for a copy of the wait list. D. Oshiro stated the application list is available online or in all district offices. Chair Masagatani reconfirmed that L. Suber is on the list in her father's spot. D. Oshiro offered to take S. Matthews to the office to view the wait list.

**ITEM J-11 Aaron Mahi – Ko'olau Foundation License Request**

A. Mahi is the President of the Ko'olau Foundation which is seeking a long-term license disposition for the Ha'iku Valley Cultural Preserve. They have had several meetings with the community to develop a vision for the Preserve. This vision was presented to the Office of Hawaiian Affairs (OHA) as part of the Halawa/Lulukou Interpretive Development Plan to create this cultural preserve in response to the H3 being built through the valley. Their understanding is that the funding from Halawa/Lulukou Plan would help establish the Preserve. However, they do not have a land disposition from DHHL, which is why they keep returning. They have been asking that DHHL transfer the land to OHA. There was support for a license in the past, but OHA felt a Conceptual Plan was needed. OHA funded the Conceptual Plan which is now being submitted to DHHL.

The vision is to return the valley to the native forest and remove the invasive species. They also want to restore the Omega Station, turning it into a cultural center. They would like to assist with managing the valley, hosting educational and community groups. They have met with all the major stakeholders including the Department of Water Supply, the Department of Transportation, Kamehameha Schools and Papahana Kuaola. The Kaneohe and Kahalu'u Neighborhood Boards

have supported the Plan as well. They understand DHHL's priority is housing, and the valley is not suitable because of its conservation zone and the large number of wahi kapu. The Foundation wants to help the Department manage the valley through the implementation of the Conceptual Plan for the Cultural Preserve. Pictures of vandalism at the Omega Station were shared. A. Mahi asked for the opportunity to malama their kuleana.

Chair Masagatani stated she did reach out to OHA and Kamehameha Schools to swap land with one of these organizations for land that is more suitable to housing. Unfortunately, neither organization was interested. A. Mahi thanked the Commission for the opportunity and hopes DHHL will allow the Foundation to restore the heiau and other wahi kapu in the valley.

**ITEM J-12 Kika Bukoski – Right of Entry 645 A. Silva**

K. Bukoski spoke on behalf of A. Silva who holds DHHL Right of Entry (ROE) 645. He is receiving no compensation for his assistance. In 2013, the Commission granted ROE 645 to A. Silva. He has complied with all aspects of the ROE. K. Bukoski is here to update the Commission on the activities of the parties who occupy adjacent properties. Mr. Silva is in the middle of other occupants who do not hold ROEs or Revocable Permits with the Department. There have been incidents of criminal property damage and harassment, which were reported to the police.

The situation has escalated to the point where A. Silva is seriously concerned about his business and well-being. He and A. Silva have been working with DHHL and authorities to mitigate or prevent anything from escalating to the point of bodily harm or property damage. Mr. Silva just wants to maintain his property without having to worry about the negative actions of his neighbors.

K. Bukoski also asked for periodical updates from the Department.

MOTION/ACTION

Moved by Commissioner Kaapu, seconded by Commissioner Richardson to convene in executive session pursuant to Section 92-5(a)(4), HRS. Motion carried unanimously.

**EXECUTIVE SESSION IN** 4:19 p.m.

**EXECUTIVE SESSION OUT** 4:25 p.m.

**ITEM J-14 Janeen-Ann Olds – President/CEO Sandwich Isle Communications (SIC)**

J. Olds asked for an update on several outstanding issues SIC has with the Department.

1. Education Fund – Waiting to hear how DHHL wanted to proceed. They have \$137,000 on hold.
2. Request for financials – Articulated the need for confidentiality and how to best work out those concerns.
3. Request for certification by DHHL as an Eligible Telecommunications Company (ETC). SIC requested a certification letter in January but have not heard anything from DHHL.

She added that SIC finally received a written report from USAC (Universal Service Administration Company). They are preparing their response which is due on Friday. With that, the FCC will be able to decide to release funds they are holding. If SIC is certified as an ETC, the FCC will be able to fund SIC for the current year. Certification will not cost the Department any money. In fact, the Commission will benefit because the funding is used for

telecommunications infrastructure located solely on Hawaiian Home Lands. No money will be released until the FCC has decided the outcome of its audit. SIC believes that either the Public Utilities Commission (PUC) or the Hawaiian Homes Commission (HHC) can issue an ETC designation. Every day that is delayed is one more day that SIC loses funding. SIC will ask the FCC not only to restore the funding that has been suspended but also to apply the certification retroactively to the beginning of the year. Waivers are rarely granted, but SIC believes it has the right to ask because the FCC has never withheld funding while conducting an audit.

J. Olds stated SIC is disappointed and frustrated that they have not heard back from DHHL. They have contractual obligations through the license agreement to the Department and more importantly to the beneficiaries. To date, they have continued to observe their contractual obligations and aggressively protect their rights under that license agreement, especially with respect to exclusivity. What SIC is doing is for the beneficiaries. Their money is spent on the Home Lands. If the Commission or SIC does not do it, with respect to telecommunications infrastructure, no one else is going to take care of the beneficiaries.

SIC is trying to work cooperatively with DHHL and asked for assistance with the outstanding matters.

Chair Masagatani stated that regarding the Education Fund, the Department is close to initiating a process for its Native Hawaiian Development Program Plan which has to do with what programs and/or services are needed/wanted by all beneficiaries. The beneficiary input received for this process could help determine how the Education Fund should be utilized if the conditions in the license regarding this funding provide for flexibility.

For the Commission's information, there was communication between the PUC and DHHL regarding DHHL's authority to issue an ETC certification.

Commissioner Richardson asked if Kamehameha Schools (KS) provided a reason for terminating SIC's services at its facilities on DHHL land. J. Olds answered they received no reason but assumed KS wanted to go with Hawaiian Tel. It could be because their facilities that are not located on Hawaiian Home Lands are with Hawaiian Tel.

Commissioner Richardson stated his personal view is that the PUC should issue the ETC instead of DHHL. J. Olds stated she would rather the FCC be the arbitrator and say they will not accept the ETC designation from the HHC.

Commissioner Richardson added he is concerned about the economic viability of the company. He hasn't seen much cooperation from SIC. He has made numerous requests since being on the Commission for finances. Under Mr. Hee's leadership, the Department was not given SIC's full cooperation and he's uncomfortable with that. J. Olds stated they have been prepared to provide financial information with proper assurances that the financial information would remain confidential. DHHL has not provided a response to SIC. It has not been an unwillingness on SIC's part. Even with USAC and the FCC, everything is confidential. Commissioner Richardson asked if the Department could find a solution to the confidentiality issue, would SIC provide access to the Network Operations Center (NOC) and performance criteria of all of the networks. J. Olds responded she is not sure why the Department would need access to the NOC, but it is something that they would certainly consider. As far as the performance metrics, they are a part of the ETC filings.

Commissioner Richardson requested an Executive Session.

MOTION/ACTION

Moved by Commissioner Kaapu, seconded by Commissioner Richardson to convene in Executive Session pursuant to Section 92-5(a)(4), HRS. Motion carried unanimously.

**EXECUTIVE SESSION IN** 4:43 p.m.

**EXECUTIVE SESSION OUT** 5:06 p.m.

**ITEM J-13 Bo Kahui – Executive Director, La‘i ‘Ōpua 2020**

B. Kahui requested an update on the concerns he brought to the Commission last month regarding assistance with recovering association fees from lessees who refuse to pay their share. He provided the commission with a spreadsheet identifying the most egregious offenders and asked that the Commission initiate contested case hearings to try to resolve the delinquencies.

He reviewed the following talking points, which resulted from a meeting with DHHL staff the day before.

- I. Commercial General Lease Agreement #289: Request to Revise/ Amend
  1. Terms on Page 3 re: Demise (see Lease #289)
  2. Amend & Extend Terms to ten+ years
  3. Establish new and "reasonable benchmarks"
  4. Amendment a requisite to "ground sublease"
  5. Impact to commercial center ground lease
- II. Community Center Development - 2016 Legislature
  1. L2020 GIA \$2. 9M
    1. GIA legislation separate and independent to \$5.5 CIP request to DHHL/L2020
    2. NMTC Chickasaw Nation interest in L2020 Project up to \$2M cash investment.
    3. Group 70 Int. completed plans.
    4. A Phased plan considered if funding is short.
  2. \$199 Operation Budget
    1. One year operations funding to support the CC- build
    2. Support L2020 programs
    3. Request to consider L2020 Bridge Loan
- III. L2020/ DHHL Water Development Initiative
  1. L2020 Seeks \$5.5 DHHL initiative.
  2. USDA RUS Memo: approve up to 45% the project cost
  3. DWS & L2020 Negotiating site with owner
  4. L2020 seeking other options
  5. USDA "online application" initiated
    1. Consultants engaged: EA/PER

**ITEM J-1 John McBride – Pu‘u O‘o/Humu‘ula Projects**

J. McBride asked for an update on the proposal he submitted in December. He has not received any communication from the Department about the status of the proposal. He asked for information on the policy or process beneficiaries should use to submit proposals like his to the Commission. If there is no consistent procedure for beneficiaries to follow, how do beneficiaries know what is happening with their project. If there is no process, there is not accountability. If there is no accountability, there opportunity for corruption.

**ITEM J-7 Annie Aea – Vinyl Fence Kama‘aha Avenue**



Iwalani Laybon-McBrayer and Jody Akau speak on behalf of A. Aea who was unable to attend. I. McBrayer presented the Commission with a packet of information related to their request for a Perimeter CMU wall. I. McBrayer read through her *Chronology of Request for Perimeter CMU Wall* and a letter she drafted to *Governor Ige on February 22, 2016*.

J. Akau stated she is from the Kanehili Homestead Association and would like to get an update on DHHL's progress on their wall. They are asking for an additional 585 feet extension to their wall to the park to keep the area safe.

I. McBrayer asked for the name of a contact person at DHHL that can work with them. Chair Masagatani indicated that Deputy William Aila Jr., will be the initial contact.

Note: The following J Agenda items were deferred to a future agenda.

- J-2 Marion K. Kapuniai – Lease Issue**
- J-3 Rockylin Loo – Lease No. 7052, Lot No. 25 Pu'u Pulehu**
- J-4 Princeslehuanani Kamaewakainakaleomomona - Kahikinui**
- J-6 Homelani Schaedel – President, Maluōhai Homestead Association**
- J-8 Robin Danner – Chairman, State Council of Hawaiian Homestead Associations**
- J-9 Michelle Ka'uhane – CEO, Council for Native Hawaiian Advancement.**

## **ANNOUNCEMENTS AND ADJOURNMENT**

### **NEXT MEETING**

Next community meeting to be held March 22, 2016, Ka Ho'oilina Na Kūhiō Community Center, Waimānalo, O'ahu

### **ANNOUNCEMENT**

#### **MOTION/ACTION**

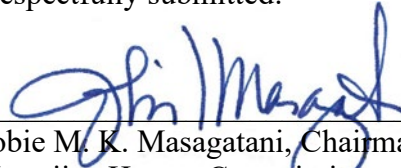
Moved by Commissioner Kaapu, seconded by Commissioner Richardson to adjourn. Motion carried unanimously.

### **ADJOURNMENT**

6:11 PM

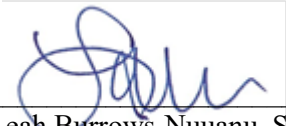
These minutes were reviewed and meet the requirements for minutes as outlined in HRS §92-9(a).

Respectfully submitted:



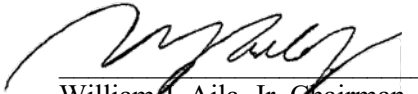
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Jobie M. K. Masagatani, Chairman  
Hawaiian Homes Commission  
(May 2012-May 2019)

Prepared by:



Leah Burrows-Nuuanu, Secretary  
Hawaiian Homes Commission

APPROVED BY:  
The Hawaiian Homes Commission  
At Its Regular Monthly Meeting On  
December 20, 2022



William J. Aila, Jr. Chairman  
Hawaiian Homes Commission