

HAWAIIAN HOMES COMMISSION

Minutes of August 21, 2023

Hilton Garden Inn Kauaʻi Waialua Bay, 3-5920 Kuhio Highway, Kapaa, Kauaʻi, and
Interactive Conferencing Technology (ICT) Zoom

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

PRESENT

Kali Watson, Chairman
Randy K. Awo, Vice-Chairman, Maui Commissioner (arrived 9:40 a.m.)
Makai Freitas, West Hawaiʻi Commissioner (arrived 11:10 a.m.)
Zachary Z. Helm, Molokaʻi Commissioner
Michael L. Kaleikini, East Hawaiʻi Commissioner
Pauline N. Namuʻo, Oʻahu Commissioner
Dennis L. Neves, Kauai Commissioner
Vacant, Oʻahu Commissioner
Vacant, Oʻahu Commissioner

COUNSEL

Alyssa Marie Kau, Deputy Attorney General

STAFF

Katie L. Ducatt, Deputy to the Chairman
Leah Burrows-Nuuanu, Secretary to the Commission
Richard Hoke, Executive Assistant to the Chairman
Andrew Choy, Planning Manager
Kahana Albinio, Acting Land Management Division Administrator
Juan Garcia, Homestead Services Division Administrator
Stewart Matsunaga, Land Development Division Administrator
Paula Ailā, Acting Contact, and Awards Division Administrator
Lehua Kinilau-Cano, NAHASDA Government Relations Program Manager

ORDER OF BUSINESS

CALL TO ORDER

Chair Watson called the meeting to order at 9:34 a.m. Five (5) members were present at the meeting location, establishing a quorum.

Chair Watson announced that Item F-6, relating to Pivot Energy, has been deferred to a future agenda. The Commission will recess at noon for lunch and convene in executive session for approximately 90 minutes. The Community meeting tonight starts at 6:30 p.m. at King Kamualiʻi Elementary School, 4380 Hanamaʻulu Road, Lihue. The link to join online can be found on the DHHL website under the Live tab.

APPROVAL OF AGENDA

MOTION/ACTION

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

APPROVAL OF MINUTES

JULY 17 & 18, 2023, REGULAR MEETING MINUTES

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the July 17 & 18, 2023 Minutes. Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

PT-1 Jackson – Item F-5

Mr. Jackson testified in support of the Item F-5 group and to switch them from a Right-of-Entry to a General Lease. They have made good changes in just two months. They are about restoring native Hawaiian lands to native Hawaiians.

PT-2 Patricia Teruya – Item F-5

P. Teruya testified as a former O`ahu Commissioner of the Hawaiian Homes Commission. During her tenure, she was engaged in the Department's commercial licenses, general leases, right of entry permits, and lots and asked the tough questions on compliance and availability. She commended the Department's LMD staff and Kaala Shea for restoring two structures in the Shafter Flats area and having a native Hawaiian entity operate on the parcel. She fully supports Akana Brothers Construction, LLC's Right-of-Entry Permit.

She quoted from page 2, condition No. 5, "No residential living on the site unless given prior written approval by the HHC" of the submittal, stating families are living on parcels. She also noted condition No. 7 regarding having Akana Brothers do an environmental assessment ("EA") if the Department feels one is warranted. All who hold general licenses should be required to complete an EA. She noticed that conditions Nos. 5 & 7 were not in the submittal for Hawai'i Transfer's Right-of-Entry for the Kakoi parcel.

Commissioner Awo commended former Commissioner Teruya for her service and is glad she still advocates for the beneficiaries. Commissioner Helm expressed the same. Chair Watson stated she showed commitment and dedication and continues to do so. Commissioner Neves also shared his mahalo.

PT-3 Germaine Meyers – The Agenda and Items F-1 and D-1

G. Meyers shared her concern with having insufficient representation for O`ahu at this August meeting, with only one commissioner to serve all of O`ahu. Regarding Item F-1 Renewal of Right-of-Entry Permits, the Department is awarding licenses for agricultural, residential, and pastoral lots. She is concerned about the agricultural and pastoral leases being licenses, not awards. The length of years for the licenses was 18 years to 33 years. She stated the Department is not respecting what the task force came up with and listing it under land management. She asked why the department did this and felt going through another avenue was illegal.

PT-4 Sherri Cummings – Item F-1

S. Cummings testified she lived with her mom until 2014, and they were caretakers of the ROE, which stated that no permanent structures were to be built on the parcel, but there were permanent

structures there. She went to the Department of Health because there was a cesspool and brought it up before management. Allegations were made which were not true.

PT-5 Patrick Kahawailoa`a – Various items

P. Kahawailoa is the President of the Keaukaha Community Association. He, too, supported the ROE for Akana Brothers Construction. He stated that the Mapunapuna area (Shafter Flats) was a 20-acre exchange for the 208-acres of airport lands in the 1980s. The 20 acres are now partially underwater due to global warming and floods. It is costing the Department more now than it would have been collecting income from the 208 acres from the airport.

For Item C-7, the PIG will study and recommend Fairness in Lease transfer strategies. In 1999, there was a moratorium because some beneficiaries profited from selling lands to another native Hawaiian of 50%. He thought that was resolved. Regarding Item C-2, the beneficiaries in Keaukaha had no idea there would be lease awards for Keaukaha pre-owned homes. He asked this be discussed in the next two days or that the Commission be prepared to discuss this when they are in Hilo in September.

Regarding the Broadband item, beneficiaries knew nothing about this as there was no discussion in any Native Hawaiian community about what the grant would do for the homestead community. He hopes Mr. Tengan will go to the community to explain it or use the beneficiary consultation process.

PT-6 Jojo Tanimoto – Item C-8

J. Tanimoto testified her concern and urgency in getting water. The Kawaihae Community has asked the Department to put this on the legislative agenda so they can start infrastructure to locate water. The urgency is competing with millionaire developers who want to buy the land and water. She asks the Commission and Department to step in on the community's behalf. They have been waiting for 37 years to receive more water. She stated her problem with the Department is communication. She has called many times, and no one has called back. Commissioner Teruya stepped out for them in Kawaihae. She also mentioned that Kawaihae is not in the States hazard mitigation or tsunami plans.

PT-7 Kipukai Kualii – Item F-7

K. Kualii testified he agreed with Germaine Meyers in honoring the wait list before all land awards. The long-standing homestead associations should be prioritized before any individual pop-up community non-profit, of which some have not even been heard. The long-time homestead associations can help the Department get the people on the land. The Department has failed to give mercantile awards because it does not have a process. The homestead associations have success across the state doing economic development projects. He stated they have an outstanding right of entry request and hopes the Commission addresses that.

PT-8 Rowena Contrades-Pangan

R. Contrades-Pangan stated she was shocked that not many Hawaiians were at the meeting. She asked why the room was not filled with the Niihau Hawaiian people. How do people get information about the Department having a meeting on Kaua'i? She talked to a gentleman who said they sent a card. She asked if it was written in 'olelo because her people do not speak

English. How does one get information that the Department is on Kaua'i because it was not in the newspaper or the radio? There needs to be more communication.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

- ITEM D-2** **Approval of Consent to Mortgage (see exhibit)**
ITEM D-3 **Ratification of Loan Approvals (see exhibit)**
ITEM D-4 **Approval of Homestead Application Transfers/Cancellations (see exhibit)**
ITEM D-5 **Approval to Certify Applications of Qualified Applicants for the Month of July 2023 (see exhibit)**
ITEM D-6 **Approval of Assignment of Leasehold Interest (see exhibit)**
ITEM D-7 **Approval of Amendment of Leasehold Interest (see exhibit)**
ITEM D-8 **Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems or Certain Lessees (see exhibit)**
ITEM D-9 **Commission Designation of Successor – GEORGE STEVEN K. MIKAELE, Residential Lease No. 1650, Lot No. 100, Nanakuli, O'ahu**

RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Juan Garcia presented the following:
 Motion to approve the Consent Agenda items listed for the Commission's consideration.

J. Garcia highlighted Lydia Kamoku regarding her successorship to her sister's application. Item D-4 asks for the Commission's approval to cancel her application, allowing her to succeed in her sister's application.

MOTION/ACTION

Moved by Commissioner Teruya, seconded by Commissioner Neves, to approve the Consent Agenda as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas						X late
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Namu'o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			6			
MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED Motion passed unanimously. Six (6) Yes votes.						

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-1 Approval of DHHL Emergency Rental Assistance Program Pursuant to Disaster Declaration Relating to Wildfires in Maui County

RECOMMENDED MOTION/ACTION

NAHASDA Government Relations Program Manager Lehua Kinilau-Cano presented the following:

Motion that the Hawaiian Homes Commission approve the DHHL Emergency Rental Assistance Program Pursuant to Disaster Declaration Relating to Wildfires in Maui County, which comes in three parts:

- 1 . Approve the amendment to the DHHL Emergency Housing Assistance Program Policy to include assistance to households that have suffered a physical disaster, fire, earthquake, hurricane, tsunami, etc.
- 2 . Authorize the establishment of the DHHL Emergency Rental Assistance Program pursuant to the declaration as a result of wildfires in Maui County utilizing Native Hawaiian Housing Block Grant (NHHBG) funds made available with NAHASDA and other federal laws which provide that NHHBG funds may be used to provide rental assistance to eligible Native Hawaiian families both on and off the Hawaiian Home Lands, and
- 3 . Authorize DHHL to utilize up to \$5 million of NHHBG funds made available in accordance with NAHASDA and allow the department to increase funding for the program in response to demand and as NHHBG funding or other supplemental funding permits by informing the HHC.

MOTION

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

DISCUSSION

Commissioner Helm asked how soon the funds would be available and how many would be served. L. Kinilau-Cano stated the goal is the end of this month. They must determine how many applicants and undivided lessees resided or had jobs in Lahaina. It is not only if they lost a home but also if the wildfires affected their incomes.

They have guidance from HUD that when there is a Presidentially declared disaster, they can assist up to 120% of the AMI, but there are parameters. The focus will be on those whose income does not exceed the AMI of 80%. The Presidential Declaration reference is to the County of Maui.

Chair Watson asked Commissioner Awo if he could give an update on the situation on Maui.

Commissioner Awo stated Lahaina is the site of absolute devastation; many have died and are still experiencing trauma due to having witnessed people dying and barely escaping themselves. Thousands were homeless overnight. He thanked everyone who continued to pour their aloha to Maui. He summarized what was being done on the ground in real-time as quickly as possible. He thanked Chair Watson for his quick action, Stewart Matsunaga for helping with logistics, Kuhio Lewis for providing services into Leiali'i, Archie Kalepa, the Alakai of the leadership on Maui who made his home the deployment center, and many others on his list. The trauma and

generational relationships connect these people, and they understand that they are a part of a larger torn fabric.

He would like the Department to utilize its lands to provide the community with opportunities to receive disaster relief supplies and offer storage opportunities. The Department's resources are finite, and its mission to its beneficiaries is clear and creative. It creates FEMA-free zones that are not problematic in the bureaucracy of being nimble to communities in real-time. It does not mean they do not have a purpose, and it does not mean what they bring to the table is not appreciated. Systems that are diverse and dynamic must be created in this time of need.

There is a building they will have in Leiali'i to serve as a processing center to provide services that have been asked of the Department. CNHA is a big part of this process. FEMA applications, insurance applications, and especially federal applications are challenging. CNHA will bring in staff who are ma'a with and can help with that. Some native Hawaiian healers are open to merging with Western services. The Department has to stay committed to the long-term needs.

In Leialii, the homes were still standing, so the people preferred to go home. Next to Leialii is a toxic waste site. Wahikuli and Kahoma are leveled to the ground, and the debris is considered toxic, and the residents may have to be evacuated.

Chair Watson thanked Commissioner Awo for all his help that he is doing. He also acknowledged Lehua Kinilau-Cano for moving things along quickly.

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Neves, to approve the motion as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas						X late
Commissioner Helm	X		X			
Commissioner Kaleikini			X			
Commissioner Namu'o			X			
Commissioner Neves		X	X			
Chairman Watson			X			
TOTAL VOTE COUNT			6			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passed unanimously. Six (6) Yes votes.						

ITEM C-2 Approval of Lease Awards Keaukaha Preowned Home Residential Lot, Hilo, Hawai'i; Pu'ukapu Farm Lot, Agricultural Vacant Lot, Kamuela, Hawai'i; Pana'ewa House and Farm Lots, Subsistence Agricultural Lots, Hilo, Hawai'i. (see exhibit)

RECOMMENDED MOTION/ACTION

Acting Contact and Awards Division Administrator Paula Aila presented the following:
 Motion that the Hawaiian Homes Commission approve the 99-year Lease Awards for Keaukaha Preowned Home Residential Lot, Hilo, Hawai'i; Pu'ukapu Farm Lot, Agricultural Vacant Lot, Kamuela, Hawai'i; Pana'ewa House and Farm Lots, Subsistence Agricultural Lots, Hilo, Hawai'i.

MOTION

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

DISCUSSION

Commissioner Kaleikini asked that Pana`ewa had 16 lots, but there were only 15 awards. P. Aila stated the last selectee decided to defer at the last minute, so the Department is going down the list to fill that 16th lot.

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Neves, to approve the motion as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas						X late
Commissioner Helm	X		X			
Commissioner Kaleikini			X			
Commissioner Namu`o			X			
Commissioner Neves		X	X			
Chairman Watson			X			
TOTAL VOTE COUNT			6			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Six (6) Yes votes.						

ITEM C-3 Acceptance of the 2023 Annual Performance Report (APR) – Native Hawaiian Housing Block Grant

RECOMMENDED MOTION/ACTION

NAHASDA Government Relations Program Manager Lehua Kinilau-Cano presented the following:

Motion that the Hawaiian Homes Commission accept the 2023 Annual Performance Report (APR) – Native Hawaiian Housing Block Grant for transmittal to HUD.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas						X late
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			6			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Six (6) Yes votes.						

Chair Watson deferred Item C-4 to later.

ITEM C-5 Request to hold a Limited Meeting of the Hawaiian Homes Commission on September 17, 2023, to DHHL Parcels in Maku`u, Ka Lae and Discovery Harbor, Hawai`i Island

RECOMMENDED MOTION/ACTION

Planning Manager Andrew Choy presented the following:

Motion that the Hawaiian Homes Commission approve to hold a Limited Meeting of the Hawaiian Homes Commission on September 17, 2023, to DHHL Parcels in Maku`u, Ka Lae, and Discovery Harbor, Hawai`i Island.

MOTION

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

DISCUSSION

Commissioner Kaleikini asked for this special meeting because we have a quorum with the Commission. A. Choy stated the meeting is a part of the scheduled September 17, 2023, Commission meeting in Ka`u and as an opportunity to visit sites in Maku`u, Ka Lae, and Discovery Harbor. Per the Sunshine Law, the Department was required to notice the site visits before the community meeting in Ka`u.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas						X late
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			6			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passed unanimously. Six (6) Yes votes.						

ITEM C-6 Request to hold a Limited Meeting of the Hawaiian Homes Commission to DHHL Parcels in Keanae and Wakiu, East Maui

RECOMMENDED MOTION/ACTION

Planning Manager Andrew Choy presented the following:

Motion that the Hawaiian Homes Commission approve to hold a Limited Meeting of the Hawaiian Homes Commission, October 15, 2023, to DHHL Parcels in Keanae and Wakiu, East Maui

MOTION

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

DISCUSSION

Commissioner Awo stated he is thinking about what the situation on the ground might look like on Maui then. It is a good idea to keep it in planning but to be prepared to shift or pivot depending on what is occurring on the ground.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas						X late
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			6			
MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED Motion passed unanimously. Six (6) Yes votes.						

ITEM C-4 Approval of Report and Recommendations from the Permitted Interaction Group, Appointed Pursuant to HRS § 92-2.5 and HAR § 210-2-16(b)(1), to Study, Evaluate, and Recommend Strategies Related to Geothermal Exploration, Feasibility, Extraction, and/or use on Hawaiian Home Lands

RECOMMENDED MOTION/ACTION

Real Property Development Agent Russell Ka`upu presented the following:

Motion that the Hawaiian Homes Commission approve the Report and Recommendations from the Permitted Interaction Group, Appointed Pursuant to HRS § 92-2.5 and HAR § 210-2-16(b)(1), to Study, Evaluate, and Recommend Strategies Related to Geothermal Exploration, Feasibility, Extraction, and/or use on Hawaiian Home Lands

He stated the PIG came up with recommendations, and one is who will be serving as the Chair of the PIG committee going forward. He hopes to be assigned to the committee as a staff member. Chair Watson asked that he share his experience and suggestions.

R. Ka`upu stated the PIG has had four meetings since it was formed in March 2023, which included staff, people from the University of Hawai`i who are knowledgeable of geothermal and volcanic activities, and the PIG also had the assistance of Waika Consultants LLC to help with a strategy for geothermal development. It was found that there are suitable lands on the HHL inventory with indications of high amounts of heat that can be used for geothermal production. It was found that Humu`ula on Hawai`i island is active and the most reasonable means of access and most suitable. They also talked about how they would develop the resource, and because the Department does not know, it would rely on a private partner who can develop the resource and finance the venture. The Department's primary participation would be making land available,

providing political support, generating government funding, and keeping things proper with the community.

DISCUSSION

Commissioner Namu`o commended the PIG and made the way clear.

Public testimony – Douglas Adams. Is the Director for Research and Development for the County of Hawai`i and spoke on behalf of Mayor Mitch Roth. He began by stating that Hawai`i County stands in long-term solidarity with the County of Maui. He stated they favor the renewable green firm and see it as a key to the quality of life, standard of living, and reducing the cost of living on Hawai`i island. They are paying attention to the kind of energy that is being generated and used for grid and transportation purposes. They encouraged the Commission to support the PIG's work in Item C-4 on geothermal and Item C-8 in the DHHL legislative package for appropriations. He stated this is the revenue piece for Hawaiian homelands, the Department, and the beneficiaries.

Public testimony – Germaine Meyers. She stated the report states that the Attorney General's opinion confirms that DHHL is entitled to 100% of the royalties generated from geothermal projects on DHHL lands. She requested O`ahu Commissioner Namu`o be on the PIG for geothermal. G. Meyers stated she will seek more community members to support geothermal.

MOTION

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

R. Ka`upu supports Commissioner Namu`o being on the PIG and Commissioner Freitas as the next Chairman of the PIG. Commissioner Kaleikini looks forward to continued participation in the PIG.

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Neves, to approve the motion as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas						X late
Commissioner Helm	X		X			
Commissioner Kaleikini			X			
Commissioner Namu`o			X			
Commissioner Neves		X	X			
Chairman Watson			X			
TOTAL VOTE COUNT			6			
MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED Motion passed unanimously. Six (6) Yes votes.						

LAND MANAGEMENT DIVISION

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

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve the Annual Renewal of Right of Entry Permit(s), Kauaʻi Island. The motion is in 3-parts:

- A. Renew all Kauaʻi Island Right-of-Entry Permit(s) not highlighted in yellow as listed on Exhibit-A and identified by approximate location on the island map marked Exhibit-A-1 that comply and issued temporary approvals, as of September 1, 2023.
- B. The annual renewal period shall be on a month-to-month basis for up to twelve (12) months but no longer than August 31, 2024.
- C. Authorize the Chairman to negotiate and set forth other terms and conditions that may be deemed appropriate and necessary.

He noted that those ROEs highlighted in yellow have paid and are current with their rents.

MOTION

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

DISCUSSION

Commissioner Neves asked to go through the ones that have been corrected. He also asked if any late fees were charged. Land Agent Kaipo Duncan stated ROEs 542 and 541 were paid to date, and the Department has not charged late fees. Commissioner Neves stated that is a big chunk of money. What are the other updates? K. Duncan stated ROE 550, 565, 553, 564, 578, 583, and 542 and 541 as stated. All those are highlighted in orange.

Commissioner Kaleikini stated the ROE agreement does not mention anything about late fees. K. Albinio stated General Leases have that language, but the ROEs do not.

Chair Watson stated we should start charging late fees, revise those things, and have a little hammer so these guys pay on time. K. Albinio stated they can discuss with the AGs what late fees can be charged. Chair Watson stated if you are late, you pay fees like everybody else.

Public testimony – Germaine Meyers. She stated that the seven agricultural licenses total 70 acres of land, the 15 pastoral lots total 753 acres, and the five caretaker licenses total 4 acres. She did not understand Sherri Cummings’s testimony. Still, she hoped the Department would investigate it because if a fire destroyed the parcel, she would think the Department would replace it with another lease. The Department is mandated to award agricultural, pastoral, and residential lots. She will advocate for native Hawaiians to get leases instead of native Hawaiians and non-native Hawaiians to get licenses.

Public testimony – Sherri Cummings. For the record, the fire burned up Mauka with no fire breaks in the back of her family’s property, which started the ROE process. The Department wanted people to take kuleana and help maintain it because the lands were dry. Those lands were awarded and then taken back by the Department because of pilikia with the water pressure. The lands were not habitable. Her family had the heavy machinery, so they cut the roads and made the

fire breaks all on their time and malama the place until the Department decided what they would do with the land. If she and her family do not do it, nobody else will do it.

Public testimony – Kipukai Kualī'i. As a trust beneficiary and waitlister, side-stepping the wait list is important. How the Department categorizes land use for community vs. caretaker vs. commercial is unclear. Suppose it is not known whether it is a beneficiary, for profit, non-profit, or a beneficiary organization, 50% or more native Hawaiian. In that case, it is unknown if a waitlister's right is foregone for whom or for what.

Chair Watson stated the submittal needs to be amended.

MOTION TO AMEND

Moved by Commissioner Neves, seconded by Commissioner Helm, to amend the submittal to show the ROEs that have been paid up, changed from highlighted yellow to no highlight. ROEs 550, 565, 553, 564, 542, 541, 578 and 583.

MOTION/ACTION TO AMEND

Moved by Commissioner Neves, seconded by Commissioner Helm, to amend the submittal to show the ROEs that have been paid up, changed from highlighted yellow to no highlight. ROEs 550, 565, 553, 564, 542, 541, 578 and 583.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Namu'o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			7			
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.						

MOTION AS AMENDED /ACTION

Moved by Commissioner Helm, seconded by Commissioner Neves to approve the amended motion as stated.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm	X		X			
Commissioner Kaleikini			X			
Commissioner Namu'o			X			
Commissioner Neves		X	X			
Chairman Watson			X			
TOTAL VOTE COUNT			7			
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 F-2 Approval to First Amendment to Right of Entry Permit No. 714, Prometheus Construction, Puowaina, Punchbowl, O`ahu, TMK: (1) 2-2-005:035 (por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:
Motion that the Hawaiian Homes Commission approve the First Amendment to Right of Entry Permit No. 714, Prometheus Construction, Puowaina, Punchbowl, O`ahu, TMK: (1) 2-2-005:035 (por.)

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Neves, to approve the motion as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm	X		X			
Commissioner Kaleikini			X			
Commissioner Namu`o			X			
Commissioner Neves		X	X			
Chairman Watson			X			
TOTAL VOTE COUNT			7			
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 F-3 Approval to Third Amendment to Right of Entry Permit No. 704, Hawaiian Telcom, Inc., Portions of Various Tax Map Keys, Island of Kaua`i, O`ahu, Moloka`i, Maui, Hawai`i, State of Hawai`i

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:
Motion that the Hawaiian Homes Commission approve the Third Amendment to Right of Entry Permit No. 704, Hawaiian Telcom, Inc., Portions of Various Tax Map Keys, Island of Kaua`i, O`ahu, Moloka`i, Maui, Hawai`i, State of Hawai`i

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			7			
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 F-4 Approval to Issue a License to Five Mountains Hawai'i, Inc., dba Kipuka O Ke Ola (KOKO), Pu'ukapu, Waimea, Island of Hawai'i, TMK No. (3) 6-4-038:011 (por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve to Issue a License to Five Mountains Hawai'i, Inc., dba Kipuka O Ke Ola (KOKO), Pu'ukapu, Waimea, Island of Hawai'i, TMK No. (3) 6-4-038:011 (por.)

DISCUSSION

Public testimony – Mike Hudson. He wanted to make himself available for any questions the Commissioners may have.

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Neves, to approve the motion as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm	X		X			
Commissioner Kaleikini			X			
Commissioner Namu'o			X			
Commissioner Neves		X	X			
Chairman Watson			X			
TOTAL VOTE COUNT			7			
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 F-5 Approval to Issue a Right of Entry Permit to Akana Brothers Construction, LLC, Mapunapuna, Island of O'ahu, TMK Nos. (1) 1-1-064:033 and 1-1-064:021

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve to Issue a Right of Entry Permit to Akana Brothers Construction, LLC, Mapunapuna, Island of O'ahu, TMK Nos. (1) 1-1-064:033 and 1-1-064:021

He included an updated first page, and the last paragraph was revised. He introduced Umi from Akana Brothers Construction, LLC. K. Albinio stated that the Akana Brothers cleared and cleaned the site.

George Akana owns and operates Akana Brothers Construction (ABC) LLC, a native Hawaiian-owned small business that transports construction materials and aggregate. He and his wife Tehani started the business at the peak of the COVID pandemic, and it was a last-ditch effort to support their family. ABC is celebrating its third year, and its projections for the next three years look positive. He was introduced to Kaala Shea, who helped ABC connect with DHHL. In May 2023, ABC signed a Right-of-Entry for two properties on Kilihau Street. It was sad to see the

people living on the parcels, and they saw a way to help them and fix the problem that would help DHHL beneficiaries. He and Tehani put together a report on what ABC accomplished. ABC requests approval for rent reduction for the cost incurred for the work done so far. ABC's plan for the future includes applying for a general lease of the properties and collaborating with DHHL on future plans.

DISCUSSION

Commissioner Helm commended and thanked ABC for their work. Commissioner Namu`o also expressed her thanks.

MOTION/ACTION TO AMEND

Moved by Commissioner Neves, seconded by Commissioner Namu`o, to amend the motion and discount the rent by the cost incurred by Akana Brothers Construction for cleaning up the site, amounting to \$140,660. 63.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm			X			
Commissioner Kaleikini			X			
Commissioner Namu`o		X	X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			7			
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.						

MOTION AS AMENDED /ACTION

Moved by Commissioner Helm, seconded by Commissioner Neves, to approve the amended motion as stated.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm	X		X			
Commissioner Kaleikini			X			
Commissioner Namu`o			X			
Commissioner Neves		X	X			
Chairman Watson			X			
TOTAL VOTE COUNT			7			
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.						

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-7 For Information Only – Report and Recommendation from the Permitted Interaction Group Pursuant to HRS § 92-2.5 and HAR § 10-2-16(b)(1) to Study and Recommend Strategies Related to Fairness in Lease Transfers

RECOMMENDED MOTION/ACTION

None. For Information Only. NAHASDA Government Relations Program Manager Lehua Kinilau-Cano, on behalf of Administrative Rules Officer Hokulei Lindsey, presented the following:

She was notified that the item could not be discussed. It is being brought to the Commission for information, discussion, and consideration next month.

Public testimony – Harold Johnson. He is a Papakolea beneficiary, has worked in telecommunications for a long time, and has worked for AT&T, GTE, and Sandwich Isles Communications (SIC). He understands the value of the network. In 2017, SCHHA appointed him as their Broadband Advisor and passed a resolution to purchase and acquire the assets of SIC, but decided against pursuing the acquisition of the SIC assets. The assets on Hawaiian Home Lands are valuable, and he thinks SIC still controls them.

In 2018, there was a 2.5 Ghz fixed wireless license that the FCC would give Tribes across the country. The SCHHA decided not to pursue that, and he helped the Hawaiian homesteaders at La'i 'Opua apply for the licenses with the FCC and receive four licenses for the 2.5 Ghz license. FCC took the license away from the homesteaders because DHHL claimed they were more qualified to receive it.

In March of 2023, there were two RFPs to apply for the NTIA's \$72.4 million grant. The first phase of the RFP was to design, and the second phase was to qualify for the grant. He put a team together to get the grant. Hawaiian Tel ended up getting the award. His question to the Commission is what is going on, why is there a MOU, and why issue an RFP for people like Hawaiian Tel and his company and the homesteads to compete if the assurance is already made to give it to AMERIND people from the outside.

He stated there are two aspects of the NTIA grant, one for the network infrastructure and the other for broadband use and adoption. A 2.5 Ghz license is very valuable and gives high-quality internet. He wished the Department the best.

Chair Watson stated it is a complex situation. The Department has staff doing analysis. It would be more appropriate to get an insight from staff. He appreciated H. Johnson's mana'o.

MOTION

Moved by Commissioner Helm, seconded by Neves, 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

11:50 AM

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 on the following matters:

1. Update on *Kalima, et al. v. State of Hawai'i*, Civil No. 99-4771-12
2. Discussion on Memorandum of Agreement for Broadband Infrastructure Planning, Design, and Deployment services to be provided to the Department of Hawaiian Home Lands by AMERIND Critical Infrastructure, a Division of AMERIND, a Federally Chartered Tribal Nation Corporation

EXECUTIVE SESSION OUT

1:50 PM

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-8 For Information Only – DHHL's Draft Legislative Package

RECOMMENDED MOTION/ACTION

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

There were 23 legislative proposals. It was determined that Jojo Tanimoto's request was for sufficient sums and not for a Bill. O. Leao stated she would consult with Brian in ASO to ensure that J. Tanimoto's request is included in a supplemental budget request. Of the 23 legislative proposals, 12 were included in the DHHL draft legislative package. She briefed the Commission on all 12 proposals, as the submittal shows.

DISCUSSION

Chair Watson addressed Commissioner Awo and stated that he met with law enforcement regarding getting them involved and supporting the legislation presented, HHL-05(24), relating to compliance on Hawaiian Home Lands. One of the things mentioned was if the Department were to fall under its umbrella, it would open its resources for the Department's use rather than the Department doing its own thing. There could be collaboration. They are willing to put 12-13 law enforcement with a combo of Land Management through an MOA between them and DHHL rather than going through the legislation independently. They would put it under their budget.

Commissioner Awo did not dismiss it as a possible option. He asked if that was coming from Public Safety. Chair Watson stated yes. Commissioner Awo stated Public Safety's model is designed to serve their generic needs versus the DHHL trying to create a department to serve its unique requirements. He would like to see what the MOA looks like. If it stipulates that the staff is set aside for DHHL full-time, then that is something to consider. If the Department's E-team has kuleana to direct the team that is given on the MOA, he thinks it is worth considering. He spoke of the Department creating an enforcement and developing a comprehensive system that could meet the needs of the department and the beneficiaries. He would like to see the proposal and then continue the discussion.

Commissioner Kaleikini asked if No. 11 & 12 required the Department to go to the Department of Interior (DOI). O. Leao stated she believes it would have to go through a review with DOI after passage by the state legislature.

HOMESTEAD SERVICES DIVISION

ITEM D-1 HSD Status Reports

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

Homestead Services Administrator Juan Garcia stated things are steady and that there is nothing significant to report.

Chair Watson stated that with the Maui situation, one approach being looked at is providing rental units and the ADUs. He noted there are 1261 Maui residential units, and the Department will try to recruit participants. For NAHASDA, the Department is in the process of getting \$22.3 million, which could help to finance the ADU units. He stated he tasked Kalani Fronda to look at the abandoned homes and the vacant lots.

LAND DEVELOPMENT DIVISION

ITEM E-1 For Information Only – Kauaʻi Project Updates

RECOMMENDED MOTION/ACTION

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

S. Matsunaga updated the Commission on the Kauaʻi Projects. The Anahola Farm Lots Water System Improvements, the Anahola Dam & Reservoir Improvements, the Anahola Kuleana Lot Settlement, Piilani Mai Ke Kai, Hanapepe Masterplan and Environmental Assessment, Anahola Cesspool Investigation, Kekaha Cesspool Investigation, and the Anahola and Kekaha Individual Wastewater System Quantities.

DHHL Contribution and Funds Available by USDA RD, Accepted by HHC, November 2018

USDA RD 2016 FUNDING PACKAGE:

DHHL Contribution	\$3,770,723
USDA RD GRANT	<u>\$3,055,137</u>
SUBTOTAL	\$6,825,860

USDA RD 2018 FUNDING PACKAGE:

USDA RD LOAN	\$4,100,000
USDA RD GRANT	<u>\$1,999,946</u>
SUBTOTAL	\$6,099,946

GRAND TOTAL DHHL/USDA \$12,955,806

GRANT REIMBURSEMENT to date: \$3,776,358

S. Matsunaga stated there are USDA monies, and the Department is trying to make further improvements to the water system. He acknowledged Gigi Cairel, who wrote the grants to get things at this point. He recommended the Department pay the loan funds with USDA as soon as possible to avoid paying the interest and adhering to all USDA conditions. The loan funds were distributed into the DHHL account. Chair Watson asked to pay off the loan as suggested; where would that money come from? S. Matsunaga stated that would come from the loan fund received, pay off the loan, and avoid interest. Chair Watson asked about the excess. S. Matsunaga stated

that the excess will be provided to DHHL if it makes additional improvements. DHHL used monies from the Trust before receiving the loan fund.

Public testimony – Sherri Cummings. She stated five tributaries come down to Kanehu Reservoir. Four water systems are being dumped into Mamakeole through the Palakea reservoir to Anahola. The fifth tributary went straight into Waipahe'e. There was a water system from Mauka down to Kamalamalao'o, and the people could water and be fruitful, but today, there is not one drop of water on the land. She stated that Anahola was excluded from the FEMA funding after a flood, and they fought to have Anahola included so they would have the opportunity to receive funding. She has worked with DHHL staff so Anahola can access monies and help the Department give better awards to the people. The albizia removal and water restoration was number one in taking care of that kuleana.

S. Matsunaga stated that LDD must return to the Commission because it will require additional funding beyond the original appropriation of \$3 million. There is little over \$1 million left in that appropriation. Chair Watson asked if the water was just for ag or if it could be turned into potable water. S. Matsunaga stated it would have to be treated as he thinks the intention was for the kuleana ag and pastoral purposes for non-potable use. Chair Watson stated it is non-potable, but he would like to get the potable going so he can build houses, which would be nice.

Sherrie Cummings stated she has been meeting with Joe Tate of the Board of Water to discuss how surface water should be more than just a catchment. If it means giving away kuleana, let it not stop the people from accessing it. Chair Watson stated the idea is to work with the County and the beneficiaries to get the funding. The way to help is to have specific projects to justify the request. She asked for consideration from her uncle that the first hundred be for undivided interest to pa'a the lease for the generations after.

DISCUSSION

Commissioner Kaleikini noticed the extension of the 1500 sq. ft. did not go all the way across (the green line on the map). S. Matsunaga stated the left of the green is where the private lands start. Chair Watson stated there are more phases.

Note: Slide presentation attached.

ITEM E-2 For Information Only – Act 279 Implementation Update

RECOMMENDED MOTION/ACTION

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

DISCUSSION

Commissioner Helm asked if expediting the award program is still in the plans. Chair Watson stated that the undivided interest awards are the way to go if they pass away. Their heirs, with only 25% Hawaiian, lose out; we cannot let that happen anymore. He stated they must vet the people on the list to see what they can afford. Commissioner Helm stated that 3,000 lots do not seem much, but at least it decreases the waiting list. Chair Watson stated he is bringing on people to help with alternative funding so the Department can replace the encumbered funds with other funds to do other projects. Still, the funds must be encumbered initially, then look for other alternative sources. He plans to leverage more than is shown.

Public testimony – Germaine Meyers. The report did not contain the Maile Voices of America. She would like to see a column for what has been encumbered to see what totals the \$600 million inclusive of loans. She also wanted to see if any of the monies were going to multi-family units (verticles). She stated that Senator Favella was concerned that the Department would use the Governor’s Proclamation to avoid putting sidewalks and sufficient roads onto Kapolei Parkway. She also asked if Ulu Kekukui could be combined with Voices of America instead of having rentals use it for additional lot development.

LAND MANAGEMENT DIVISION

ITEM F-7 For Information Only – Anahola Hawaiian Homes Association License No. 609

RECOMMENDED MOTION/ACTION

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

This item was presented to the Commission last month. Commissioner Neves motioned to go into executive session.

MOTION

Moved by Commissioner Neves, seconded by 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

3:00 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 on the following matter:

ITEM F-7 For Information Only – Anahola Hawaiian Homes Association License No. 609

EXECUTIVE SESSION OUT

3:22 PM

PLANNING OFFICE

ITEM G-2 For Information Only – DHHL Kaua’i Water Projects and Issues

RECOMMENDED MOTION/ACTION

None. For Information Only. Planning Manager Andrew Choy and consultant Dr. Jonathan Likeke Scheuer presented the following:

Pu’uopae is one of two major reservoirs that will be rehabilitated as part of the West Kaua’i Energy project. The Well will pump renewable energy storage to West Kaua’i and provide the delivery and infrastructure to allow for the implementation of the Pu’uopae Settlement plan.

HHC Water Policy Plan – Goal 1: affirmatively communicate with beneficiaries regarding water decisions, performance, and water rights on a regional annual basis. The four main updates on the Water Projects and Issues are:

- 1 . Waimea River Settlement Implementation/West Kaua'i Energy Project
- 2 . Moloka'a Water Development Opportunities
- 3 . June 2023 Water Presentations to the Kaua'i County Council
- 4 . Beneficiary Water Rights Training

Chair Watson stated he would like those lands to be productive, but the water is key. He asked if there was not enough water to go around. Dr. Scheuer stated many of the 16,000 acres are steep ridges or gullies, so the amount of water requested was cultivated during the plantation era, so there is not enough water in this area to cultivate all 16,000 acres.

Chair Watson asked how much of the land can be cultivated. Dr. Scheuer stated he believes 3,000 acres with the 6.9 mgd that the Water Commission set aside. The request is not limited, but that was the request to effectuate the settlement plans. Chair Watson stated that does not make our lands productive. A. Choy stated it is 3,000 acres more that the Department has been able to cultivate since the inception of the HHC Act. Without the West Kaua'i Energy Project, the Department would have had to improve the system, the reservoirs, and the roads. Getting the water reservation for 6.9 mg is a good start. If the Department makes more land available in the future, the Department can go back and ask the Water Commission for additional water reservations. Without the success of the West Kaua'i Energy Project, the Commission would have to go back to ground zero to find the planning and revenue sources to build up the settlement plan at Pu'uopae.

Chair Watson stated they are working on a benefits package with KIUC like the one in Anahola, where some of that funding can help the native Hawaiian beneficiaries in that homestead community. He asked if Dr. Scheuer could partake in that discussion. It would be helpful. Dr. Scheuer stated he would be more than happy to. He stated he has never heard any of the leaders in the Hawaiian community or kalo growers speak anything but support for the Department's efforts.

DISCUSSION

Chair Watson stated he needs the understanding and capacity of the water use without delaying the Department's projects. It is the question of where the Department can acquire water, resources, and potential development because, under Act 279, the Department can acquire new land. He looks forward to Dr. Scheuer's input and that he be sensitive to the politics involved and the process. He stated the Department does not want to alienate people.

David Bissel, the CEO of KIUC, introduced himself, his Communications Manager Beth Marrow, and long-time Consultant Dan Huff. He expressed KIUC's gratitude for the Department's support over the years with the project. Chair Watson asked about the Anahola development, if the million dollars that KIUC gave the Department for the road improvement was already conveyed to the Department. D. Bissel stated yes. Chair Watson asked about the benefits package for Keokaha has still to be formulated. D. Bissel stated that KIUC are always opened to talking of how they can help the project and the community. There are millions of dollars of benefits with the infrastructure, the roads, and the electricity will be provided. KIUC is willing to talk and try to do what is right. Chair Watson expressed that getting the benefits package together sooner would be better so people can see what is being provided to the communities out there. More importantly, the Department is looking at 3,000-acres and trying to increase the water, and

KIUC has a better handle on it. Maybe KIUC can detail how that distribution system for DHHL lands might work. He stated the Department looks forward to working with KIUC.

Public testimony – Germaine Meyers. She asked for clarification regarding Item F-7 if it will be brought up later. She asked if the Commission would take testimony on Item F-7. Chair Watson stated the Commission can take testimony. She asked to share her PowerPoint presentation. She highlighted the importance of a commercial kitchen in Nanakuli for small businesses and homesteaders for economic sustainability.

G. Meyers stated she was concerned that former Chair William Aila did not disclose that he was one of the board members of one of Sherrie Cummings's non-profit organizations. His conflict of interest was not disclosed to the Commission.

Public Testimony - Sherri Cummings In February 2023, as she believed, they paid their annual filing at First Hawaiian Bank. Her Board comprises beneficiaries of the Trust, and it was disclosed to her by the agent at First Hawaiian Bank that she needed to put a third person on as a Board of Directors. For disclosure, she stated that William Aila sits on her Board effective as of 2023 and was the only person she put on as a Board of Directors in 2023.

ITEM G-1 For Information Only – Status Update on Plan Implementation on the Island of Kauai

RECOMMENDED MOTION/ACTION

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

The seven planning areas are Waimea, Kekaha, Hanapepe, Wailua, Kapaa, Anahola/Kamalamalo'o, and Moloa'a. By next year, she will update the Kaua'i Island Acreage by Land Use Designation table to reflect the most recent land use amendments.

Chair Watson deferred Item G-3 to the start of tomorrow's agenda.

ANNOUNCEMENTS AND RECESS

- 1 . DHHL Community Meeting August 21, 2023 - King Kaumuali'i Elementary School, 4380 Hanamaulu Rd., Lihue, Kaua'i, Hawai'i 96766

RECESS

4:15 PM

HAWAIIAN HOMES COMMISSION

Minutes of August 22, 2023

Hilton Garden Inn Kaua'i Waialua Bay, 3-5920 Kuhio Highway, Kapaa, Kaua'i, Hawai'i, and via
Interactive Conferencing Technology (ICT) Zoom

PRESENT

Kali Watson, Chairman
Randy K. Awo, Vice-Chairman, Maui Commissioner
Makai Freitas, West Hawai'i Commissioner
Zachary Z. Helm, Moloka'i Commissioner
Michael L. Kaleikini, East Hawai'i Commissioner
Pauline N. Namu'o, O'ahu Commissioner
Dennis L. Neves, Kauai Commissioner
Vacant, O'ahu Commissioner
Vacant, O'ahu Commissioner

COUNSEL

Alyssa Marie Kau, Deputy Attorney General

STAFF

Katie L. Ducatt, Deputy to the Chairman
Leah Burrows-Nuuanu, Secretary to the Commission
Richard Hoke, Executive Assistant to the Chairman
Andrew Choy, Planning Manager
Kahana Albinio, Acting Land Management Division Administrator
Juan Garcia, Homestead Services Division Administrator
Stewart Matsunaga, Land Development Division Administrator
Paula Ailā, Acting Contact, and Awards Division Administrator
Lehua Kinilau-Cano, NAHASDA Government Relations Program Manager

ORDER OF BUSINESS

CALL TO ORDER

Chair Watson called the meeting to order at 9:35 a.m. Seven (7) members were present at the meeting location, establishing a quorum.

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

PLANNING OFFICE

ITEM G-3 For Information Only – Ka Pa'akai O Ka 'Aina Framework Analysis

RECOMMENDED MOTION/ACTION

None. For Information Only. Planning Manager Andrew Choy and Planner Lilly Makaila presented the following:

What is the Ka Pa'akai Framework (KPF): A 3-step Analytical Framework

- Required of State and public entities in Hawai'i to effectuate Article XII, Section 7 of the Hawai'i Constitution, which obligates the State to:
 - Protect all rights, customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by ahupua'a tenants who are

descendants of native Hawaiians who inhabited the Hawaiian Islands before 1778, subject to the right of the State to regulate such rights

- Ka Pa`akai o Ka `Aina, an association of the Ka Lahui Hawai`i, was one of the petitioners who challenged the Land Use Commission's (LUC) decision regarding a State Land boundary reclassification. The Land Use Commission voted 6-5 to reclassify the lands from conservation to urban districts. This was challenged by the 3rd Circuit, which upheld the Land Use Commission's decision. It was appealed to the Supreme Court, which did not uphold the Land Use Commission's decision.
- The Supreme Court's Decision
 - The native organizations were aggrieved parties with standing to appeal the action of the LUC.
 - The LUC findings of fact and conclusions of law were insufficient to determine whether it fulfilled its obligation to preserve and protect customary and traditional rights of those native to Hawai`i.
 - The LUC improperly delegated its constitutional obligation to preserve and protect the customary and traditional rights of native Hawai`i people to a private developer.
- How it relates to Chapter 343, Environmental Review
 - Chapter 343 of the Hawai`i Revised Statutes provides a framework for review of the adequacy of environmental review documents prepared under the Hawai`i Environmental Policy Act (HEPA)
- Ka Pa`akai Framework (KPF) and the Department
 - The KPF is seen in the environmental reviews for a proposed use or project
 - Chapter 343 HRS reviews the adequacy of environmental review documents prepared under the HEPA, which includes reviewing cultural impacts similar to the KPF. Because of this, the KPF analysis is folded into environmental review documents.
 - DHHL has a legal duty to fulfill analysis based on the KPF in all its proposed uses and projects.
 - DHHL must review the documents with an eye to the three (3) components of the KPF to ensure that projects and uses on its land do not impede on the traditional and customary rights of the native people

DISCUSSION

Chair Watson stated this provision was put together by law students, which he was a part of also, to protect the rights customarily and traditionally exercised for subsistence and cultural and religious purposes for native Hawaiians. His point was that students drafted the language, did the testimony, and became part of the Hawaiian Affairs Committee with Frenchie DeSoto. They made the native Hawaiian language the State language, mandated the Department of Hawaiian Home Lands to have sufficient funds, and created the Office of Hawaiian Affairs (OHA), amongst other things. The students made preserving our culture a reality, and he encouraged students to get involved, study hard, know what they are talking about, and make us proud to be Hawaiians.

Commissioner Kaleikini requested a copy of the presentation. He stated he never knew the details and specifics of the Pa`akai Framework and thought it would be helpful to share. A. Choy stated he thinks it is an excellent suggestion to make it more explicit in future submittals. Commissioner Kaleikini thought the presentation was very informative because he never knew all the details of the Ka Pa`akai Framework until it was shared.

Public testimony – Blossom Feiteira. She commented that the Ka Pa`akai Framework (KPF) presentation surprised her. The KPF and the consultation used in the community and that it would be homesteaders in that community conflicts with the Department's process for deploying homestead lot awards. The Department uses the waitlist and awards by order of rank date of application, which means kanaka and beneficiaries may not come from the area. When these conversations are had in the community, it needs to include other homestead applicants from other areas so they can understand the protocols and the kanawai of that area when it deals with practitioner rights.

Note: Slide presentation attached.

REQUEST TO ADDRESS THE COMMISSION

ITEM J-1 Sherri Cummings – Albizia, Water Restoration, Recreational Space

She stated the mission of Malama Anahola is to improve the well-being of the native Hawaiian community through economic and workforce development focused on resource management and research, workforce training, and project development on DHHL lands. They would like to partner with DHHL and the beneficiary community to develop a native-driven regional sustainability plan and request the Department's consideration in issuing a land disposition to Malama Anahola to create a sustainability hub.

Mauka Anahola lands are plagued with albizia trees, which consume much water. The energy company that DHHL hired to harvest the albizia also allowed the company to leave the stumps in the ground, resulting in further spread of the albizia. The lack of resources since the close of the plantation has damaged Anahola's surface water resources. She stated that the Department's kuleana homestead settlement plan proposing subsistence agricultural and pastoral use lacks a resource management plan that guides all mauka lands and addresses the albizia problem. Malama Anahola will inventory, document, and maintain the ancient and current surface water system.

She discussed supporting the sports complex and introduced Parker Chandler, Sweegy, Rico, David, and Mark. The group briefed the Commission on their vision for the sports complex for the keiki. The President of Eastside Sports Club spoke on the need for the sports complex. Mark spoke of the soccer club he started and expressed the importance of a sports complex for the community.

Commissioner Awo stated more and more proposals are being seen, and he questions first if the `aina is suitable for providing homes. He learned that a community wants to build a golf course. His first question was, is it suitable for homes? Before growing athletes, we need to shelter the keiki. His priority is `aina for homes.

ITEM J-2 Jeremy Makepa – Anahola Makai Management Plan

J. Makepa is the Fire Captain for Kaua'i Fire Department and the President of `Aina Alliance. It is important to prevent wildfires, preserve and protect for future generations, and keep their community safe. Instead of being reactive, he wants to be proactive, such as ensuring the watershed is protected so the land does not dry out. Criminal activity has been reduced, and abandoned cars have been removed. People are reconnecting for their cultural activities. The financial challenges are great and provide the resources needed to maintain and clear the lands. Their estimated savings to DHHL is over \$300,000 annually for security, management,

landscaping, fuel, portable restrooms, hauling trash, heavy equipment, maintenance, and insurance. They have built their check-in station as required and were approved to start Phase 1. Phase 2 is to clear a road to the beach, and Phase 3 is to secure the South access. They would appreciate any help to get the EA done. The request is for an eleemosynary designation with a general lease.

Commissioner Neves commented that they had done a lot of work. Commissioner Awo asked if they were trying to get a general license. J. Makepa stated they want to get the eleemosynary designation completed and confirmed. He stated he would be working with land management and planning to see how they could fit it in. Commissioner Awo stated he could follow up with the Department on the eleemosynary agreement.

Public testimony – Linda Kaauwai-Iwomoto. She is a farmer in Hawaiian home lands. She has been a Fire Commissioner for 6-years. She praised J. Makepa and his group's work for cleaning up Anahola.

A. Choy stated the discussion between the Department and 'Aina Alliance is to figure out whether to lease a parcel to the organization generally or if a license disposition is more appropriate. Knowing what 'Aina Alliance's activities are, staff will look at the environmental assessment exemption list to see if 'Aina Alliance's activities are consistent with activities that can be exempt from the preparation. That is where the Department is now in terms of going through due diligence. He hears their concern about not being able to go for funding without a long-term disposition, which is a concern raised by other organizations. K. Albinio stated, 'Aina Alliance has a Right-of-Entry for three years to conduct their studies, and they are in their second year. Chair Watson said they got a grant from the Department. A. Choy stated during the fiscal year 2023 the Commission approved 'Aina Alliance, a grant to help clean up. Chair Watson asked what was the total of the grant. A staff stated it was \$331,000.

Commissioner Awo asked what an eleemosynary is and why a community would utilize it to their benefit. A. Choy stated an eleemosynary means non-profit use. The State is authorized to issue general leases to entities for non-profit purposes, and 'Aina Alliance has established a 501(c)3 for non-profits. This allows 'Aina Alliance to not go through a competitive process like commercial entities. The Department will work with 'Aina Alliance with their due diligence, and a master plan and compliance with Chapter 343 are required.

Public testimony – Sherri Cummings. 'Aina Alliance does amazing work, but all the opala is going to the mauka side. She wants a mauka plan as well as the makai plan.

ITEM J-3 Donald Fujimoto & Bryan Davidson Earthworks Pacific, Inc. – Anahola Rivermouth Maintenance/Flood Mitigation

D. Fujimoto is the Project Manager for the Aliamanu Road repair project. The project is over 15 years old and is finally up for bid and ready for construction. The project permanently repairs Aliamanu Road to restore and protect 450 feet of linear coastline. The State allows the removal of sand from river mouths to mitigate flooding. The request is for DHHL's permission to use sand for this project. Bryan Davidson stated the effort will provide flood mitigation. D. Fujimoto stated they did look at alternatives, and the preferred alternative was the repair. B. Davidson stated it is more fitting for the sand to come from the adjacent river mouth rather than importing from another source.

ITEM J-4 Abraham Makanui – Anahola Farm Lot Water Hookup

Abraham Makanui talked about the RPs in Anahola Hokulele lots. Five RPs can finally use water from the water tanks. They aimed to put up an orchard, vegetable gardens, and a parcel for grazing cattle, but the RP was cut in half to 6 acres. They had the RP for 13 years and spent much money to clear and take care of the land, but without water, it stifles. Without a general lease, they cannot deal with the ginny grass, albizia trees, and the rules and regulations around the RP. Now that the RP can use water, they want to convert the RP to a lease.

Chair Watson stated in receiving the RP, the understanding is that the purpose of the RP was like that of a caretaker of the land, and it looks like the family went beyond that. Now there is water. A. Makanui stated the subdivision upgraded and replaced the tank and provided the ability to put a meter. Chair Watson stated as you and Linda know, the Department goes by the list, and there is a risk that she might not be in line for that particular lot. She has the opportunity, but there is no guarantee.

ITEM J-8 Irene Plunkett – Rescind Lease at Waiohuli

Irene Plunkett-Mina stated she is rescinding the lease she signed on May 11, 2023, to return to her original rank on the Pu'unani residential homestead in Waikapu waitlist.

I. Plunkett-Mina asked how she could get a lease when she didn't have a building permit or performance bond. Her building permit is still in the county's permit process. She does not have a water meter due to low water pressure. She noted issues with her lot, the water, the winds, and the permitting expenses cost her over \$20,000.

Chair Watson asked that she wants to rescind the Waiohuli lease and try for the Puuanani lot. She stated yes because she is still farming. Chair Watson stated the Department can rescind awards if there is sufficient basis. He stated maybe it is a legal question.

Commissioner Awo stated the J-Agenda is to receive mana'o. He is willing to sit with the ohana and the Department as the intermediary to facilitate full and free discussion about the facts and options available.

Chair Watson stated he thinks this will need to be looked at and get advice from the Attorney General if they would fit that provision in the administrative rules. The Commission will consider it and get back to them.

ITEM J-7 Maile and Butch Ramos – Papakolea Lease Issue

Butch Ramos stated it is his third appearance before the Commission in the last 20 years. There was a project, improvements were taken away, and he was told they would be reimbursed. In 2005, he was offered a pittance of what it would take to re-do what was taken away, and he told them no.

When a new project started two years ago, and he started negotiating with the Department, he asked about the money in 2000. For the past 2-years, he has worked with Stewart, and in the July Papakolea meeting, he was told that the Attorney General's office told the Department to let the Commission make the decision. He wants to know if the answer is yes or no.

Two weeks ago, he received a call from Stewart Matsunaga with an offer of money, which included an easement that the Department wanted to put on his property. He stated the Department screwed it up, and the easement was supposed to be on Robert Kekaula's property.

Mr. Kekaula built his house, and there was no room for an easement. The Department approached B. Ramos about an easement and offered to give him the money, but they needed it. He told them they had to deal with the 2000 incident before he would give them the easement. The Department went to his neighbor and used the easement on that property. He stated the Department was trying to extort him. He needs the Commission to make a decision. He believes the Department would not make any offers if it did not feel it owed B. Ramos the money.

Chair Watson stated that the Commission is going into executive session to discuss his case.

MOTION

Moved by Commissioner Freitas, seconded by Neves, 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

11:35 AM

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 on the following matters:

- 1 . Discussion on *Yokoyama v. Hawaiian Homes Commission, et al.*, Civ. No. ICCV-23-000942
- 2 . Discussions pertaining to Lease No. 03092, Lot No. 28, Papakolea, Oahu

EXECUTIVE SESSION OUT

1:45 PM

Chair Watson stated that three areas need resolution based on what was presented. One pertains to the health, safety, and welfare of his family and homesteaders regarding the danger of falling boulders in the area. The Department, pursuant to the lease term, will withdraw the land from him and another lessee to maintain, monitor, and do what is needed to protect area homesteaders.

Pursuant to the lease, B. Ramos would be compensated for the withdrawal based on an appraisal. The Department will look at that and give him an initial figure, which will be done appropriately, and he can have it reviewed by his appraiser.

Concerning the claim for damages, the Department will not pay it. B. Ramos is free to pursue litigation or take whatever steps he wants to take.

There was a claim about the condition of the homestead regarding 10 – 12 cars. The Department notified B Ramos that he had to clean up and remove the cars in compliance with his lease and for safety reasons. A notice will be sent, and the Department will help him.

ITEM J-9 Blossom Feiteira – Various Concerns

Blossom Feiteira stated she supports Malama Anahola as they have executed and developed their plan. She asked that the Commission consider their request to issue the land disposition. There is a concern about the Department's support for rentals. She believes rentals are good for the community. Still, for the deployment of Act 279 and its strategic plan, she asks that the Department not incorporate rental-type programs in the existing plan because it is causing a delay, and Act 279 is to reduce the waitlist.

Chair Watson stated the Department is not using Act 279 for rentals. B. Feiteira stated that it is great.

ITEM J-11 Raelene Like – Ka`uluokaha`i Retaining Wall

R. Like is a new lessee of Ka`uluokaha`i. She is the Secretary of the newly formed Ahahui O Ka`uluokaha`i (AOK). She asked that DHHL build retaining walls in their backyard to level the backyard and eliminate the 45-degree slope, which will give back 10-12 feet in the backyard.

In 2019, she had a scheduled meeting with then-Chair Aila and Darrell Ing to voice her concerns about the backyard and slopes. She heard that there was a bid to build retaining walls for all the backyards, which could have been included in the home's total cost. She lives at the corner lot and has three walls; that cost was estimated at \$33,000.

In 2019, she was told by a DHHL staffer that it was a structural engineering mistake. In 2022, they had about 100 people who signed a petition which was taken to the legislature. In 2023, they did another petition to address the backyard. Before Chair Aila left, he wrote her a letter stating the awards are as is, there are no funds, and you could have deferred and gone back on the waitlist. She stated that she plans to give the Commission a package with photos, explanations, and testimonies from the community at the November meeting on O`ahu. She asked the Commission to consider building their retaining walls.

ITEM J-12 Kekoa Enomoto and Norman Abihai – Pa`upena Community Development Corp.

K. Enomoto spoke on four topics: archaeological survey, water meter, fire mitigation, and successorship. Her homestead survived the Olinda and Kula wildfires, but the Oma`api`o wildfires were visible 10 miles away. There is a need for a water meter for fire mitigation and cultivating livestock. She requested that the DHHL Planning Office apply to the County of Maui's Water Supply for a water meter on their 127-acre ROE parcel. She also requested that DHHL's Land Management Division approve Pa`upena a ROE to the 4,780-acre Waiohuli-Keokea homeland track to implement fire mitigation on the parcel.

Regarding the 127-acre parcel, Aina Archaeology presented Pa`upena with a Draft Final Report of an archaeological survey required by the State Historic Preservation Division (SHPD). The survey unveiled 51 archaeological sites and features, rendering 25 of the 127- acres useable for agricultural and pastoral purposes. She supported Robin Keali`i Nohomoku, who petitioned the Commission to name her the successor to Thomas Keali`i Nohomoku, her late uncle.

ITEM J-5 Kanoe Ahuna – Kanuikapono Charter School

ITEM J-6 Germaine Meyers – Various Concerns

ITEM J-10 Rufino Agliam – Ho`olehua Agricultural Lot Successorship

ANNOUNCEMENTS AND ADJOURNMENT

- A. Next HHC meeting – September 17, 2023, Na'alehu Community Center, and September 18 & 19, 2023, Grand Naniloa Resort Sandalwood Room
- B. Next DHHL Community Meeting – September 18, 2023 – Keaukaha Elementary School

MOTION/ACTION

Moved by Commissioner Awo, seconded by Commissioner Neves, to adjourn the meeting.
Motion carried unanimously.

ADJOURNMENT

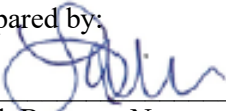
2:15 PM

Respectfully submitted:



Kali Watson, Chairman
Hawaiian Homes Commission

Prepared by:



Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission