

HAWAIIAN HOMES COMMISSION

Minutes of September 18, 2023

Grand Naniloa Resort – Sandalwood Room, 93 Banyan Drive, Hilo, HI 96720, 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
Makai Freitas, West Hawai'i Commissioner
Michael L. Kaleikini, East Hawai'i Commissioner
Walter Kaneakua, O'ahu Commissioner
Sanoe Marfil, O'ahu Commissioner
Pauline N. Namu'o, O'ahu Commissioner (Zoom)
Dennis L. Neves, Kauai Commissioner

EXCUSED

Zachary Z. Helm, Moloka'i 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 9:32 a.m. Seven (7) members were present at the meeting location, establishing a quorum.

Chair Watson announced that Item H-3 regarding the Ratification of Emergency Expenditures for the Maui Wildfires is deferred to October, and Item D-11 is deferred to tomorrow's agenda. The Commission will recess at noon for lunch and convene into executive session for approximately 60 minutes. Tonight's Community meeting starts at 6:30 p.m. at the Keaukaha Elementary School cafeteria.

APPROVAL OF AGENDA

MOTION/ACTION

Moved by Commissioner Freitas, seconded by Commissioner Kaneakua, to approve the agenda. Motion carried unanimously.

APPROVAL OF MINUTES

AUGUST 21 & 22, 2023, REGULAR MEETING MINUTES

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Awo, to approve the August 21 & 22, 2023 Minutes. Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

PT-1 Corey Hardin – Item C-2

C. Hardin testified on Item C-2, which includes a bill on geothermal and hydrogen, specifically about the impact of the Puna Geothermal Venture. In 1991, there was a well blowout that released over 2000 pounds of hydrogen sulfide and the evacuation of 75 people. In 2012, Hawaii County passed a law to stop night drilling due to complaints of vibrations and noise, but the drilling continues because state law allows for the drilling. In 2014, during tropical storm Iselle, hydrogen sulfide was released, and over 100 people reported symptoms of loss of consciousness, nausea, headaches, and lethargy. The promise of geothermal royalties is promising, but you must be careful of what you wish for.

PT-2 Elizabeth Kalei Linoen - Application

E. Linoen testified that she filled out her application on July 16, 1984, with a ranking of 685. It has been 40 years, and she is still on the waiting list. She is home now and wants a lease award on Hawaii Island. She paid her 99-year lease in October of 2005. She went through the process to the point where she received a letter congratulating her and noting they would see her at the lease signing. She stated she did not get a lease. The lease appointment was not signed.

Chair Watson stated there will be a presentation regarding the different projects using the \$600 million. He thinks she will have a good opportunity to participate.

Commissioner Awo asked to refer Auntie Kalei to Paula Aila to get her current with the awards and how they relate to the offerings that are coming up.

PT-3 TJ Forsythe – Items F-2 and F-3

T. Forsythe testified his grandmother died on the waitlist, and his mom is still on the waitlist. He submitted a proposal for a right of entry five years ago and did not receive a response. He was told to write a proposal to access spiritual and cultural gathering rights and practices. He submitted it last May and never received a response.

The Aina Mauna Legacy Plan is for beneficiaries to help manage the land. There are two contracts to manage ungulates on the mountain. One with DHHL and the other through DOFAW (Department of Forestry and Wildlife). One contract is transparent with details and benefits to DHHL beneficiaries; the other has nothing like that. Items F-2 and F-3, 40% of \$2.25 million, could be used to put infrastructure on the Mauna. Why protect the land if the Hawaiians are never going to see it?

Chair Watson stated all the lands should be out, except those that are not usable, as he thinks the Department should not have an inventory. The people should manage the land with the assistance of the Department.

PT-4 Terry Napeahi – Item C-2

T. Napeahi testified as a beneficiary living on a Pana`ewa agricultural lot. Her concern is the proposed legislative bill for geothermal funding. She reminded everyone about the division geothermal caused in the past. Pele Defense Fund vs. Campbell in the 1980s, where groups protested geothermal activity on Hawaii Island. She is familiar with the Department's PIG (permitted interaction group) to discuss legislative funding for geothermal activities and understands that it is about money and royalties. She is familiar with Don Thomas and IDG (Innovations Development Group), who are for geothermal. She spoke of the dangers of exposure to hydrogen sulfide and the unrepairable damage it can cause families. There are seven toxic companies in the Keaukaha area.

Commissioner Freitas stated he was on the Geothermal PIG, discussing the possibilities. The key component is to be economically, culturally, and environmentally pono for the Commission. If it is to advance, it needs to advance with beneficiary consultation. The thought process is not to desecrate land or disrespect cultural beliefs. The Commission seeks a way to advance its people toward self-sufficiency and self-determination.

PT-5 Scott Spencer – Item F-2

S. Spencer testified that the Department wants mamane reforestation, but our Hawaiian people have no houses. The Watershed Alliance got a house before his mom did. She is number 76 on the pastoral waitlist and is still waiting. He has to borrow land from his uncles to raise his cattle. There is nothing cultural that the Department is doing, and it needs to put the Hawaiians on their land. The Department is eradicating all the cattle to grow trees. When this generation is gone, what will the kids eat, the trees? The cattle are being shot and left there.

PT-6 Iokepa Kao– Item F-2

I Kao testified that he called and left many messages with the Chairman's office. He came to the Commission meeting in May and has been trying to meet with the Chairman ever since. It seems to him that you need to know players within the scheme, like Milton Holt, Levi Rita, and the Department of Defense (DOD), to get access to the Mauna. When did the DOD get to be 50% Hawaiian? What will the Department do with the 2,000 beneficiaries on the waitlist? The Department is giving the land to outside people and violating the beneficiaries. Can the people have a community pasture? What about mercantile licenses? Why do the beneficiaries have to bid against non-beneficiaries with deep pockets? There should be no geothermal talks and no non-beneficiaries in Hawaiian homelands. He asked for a meeting with the Chairman.

PT-7 Patrick Kahawailoa`a – Items F-2 and F-3

P. Kahawailoa`a testified that he was the only family member on a homestead in Keaukaha. The `Aina Mauna Legacy plan is the latest that was put together to put the people on the land. Peter Young did the plan with former Chair Masagatani, and it does not happen when nothing comes to fruition. Chairman Watson will do something based on the Act 279 monies, but the community still has misinformation about its use. It is not for rentals. It is to take people off the waitlist and help them acquire homeownership with 10% to deviate. He appreciates Commissioner Freitas'

comment that beneficiary consultation is the key component of geothermal. He will testify as the items come up.

PT-8 Mapuana Waipa – Item F-1

M. Waipa requested an extension to their lease for Ke Ana La`ahana Public Charter School in Keaukaha. The school has supported the community for over 20 years. They have 150-plus alumni; one works for the Smithsonian with Hawaiian archives, and another is a Marine Scientist. They have nurses, business owners, kumu, artists, and more. 96% of their student body are native Hawaiians. She thanked the Chairman for viewing the pictures; some were from the haumana.

PT-9 Patty Kahanamoku Teruya – Item C-1, F-7, F-10

P. Teruya testified in support of Item C-1, the Fairness in Lease Transfers recommendation. She also supported Item F-7 Kani Trucking and Item F-10 EC Trucking. Both trucking companies have waited a long time to get their permits in Kalaeloa. She asked that the Department continue to look at the Kalaeloa and Mapunapuna areas to put beneficiary tenants on DHHL properties.

PT-10 Kanani Kapuniai– Items C-1

K. Kapuniai commended Commissioner Awo for stepping up for his Maui ohana. She wants to amend the motion in Item C-1 to add three lessees to the Permitted Interaction Group, as the PIG needs beneficiary input. For Item C-2, she agreed with the withdrawal of HHL-05. For Items F-2 and F-3, she stated enough has been said on that, and the Commission and staff have to work on this. She appreciated TJ Forsythe's comment on the management of the lands. For Item H-1, if HHL-05 is withdrawn, how are the additional full-time employees of five land agents and six compliance officers included at different homestead district offices?

PT-11 Kekoa Enomoto – Items F-1, 2, 3, 6, 7, 8, 10 and F-5 and F-9

K. Enomoto read two letters that she also submitted to the Commission. She testified on behalf of the Maui/Lanai Mokupuni Council on the items above for approval on various trust lands. She requested that the DHHL Land Management Division (LMD) indicate if the permittee is a beneficiary. Items F-5 and F-9 for the sale or lease at public auction. Her concern is that LMD seeks to sell trust land with infrastructure while beneficiary leaders, notably on Kaua'i, urge DHHL to purchase lands without infrastructure. How can one be sure that the Trust will secure the appraised value of land sold at public auction, and don't such lands need DOI and Congressional approval? Her second letter was addressed to Blossom Feiteira and the Maui Stakeholders regarding a partnership of Na Kiai O Maui and Pā'upena CDC to develop affordable housing on the Honokowai 50-acre homelands to address housing for the wait list beneficiaries and those affected by the Lahaina wildfires.

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 Streamline Refinance of Loans (see exhibit)**
ITEM D-5 **Approval of Homestead Application Transfers/Cancellations (see exhibit)**
ITEM D-6 **Approval to Certify Applications of Qualified Applicants for the Month of August 2023 (see exhibit)**
ITEM D-7 **Commission Designation of Successors to Application Rights – Public Notice 2022 (see exhibit)**
ITEM D-8 **Approval of Assignment of Leasehold Interest (see exhibit)**
ITEM D-9 **Approval of Amendment of Leasehold Interest (see exhibit)**
ITEM D-10 **Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems or Certain Lessees (see exhibit)**

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.

MOTION/ACTION

Moved by Commissioner Freitas, 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		X			
Commissioner Helm						X
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu’o			X			
Commissioner Neves		X	X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED Motion passed unanimously. Eight (8) Yes votes.						

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

- ITEM C-1** **Adoption of Recommendation of the Permitted Interaction Group, Appointed Pursuant to HRS 92-2.5 and HRS 10-2-16(b)(1), to Study and Recommend Strategies Related to Fairness in Lease Transfers**

RECOMMENDED MOTION/ACTION

Administrative Rules Officer Hokulei Lindsey presented the following:
 Motion that the Hawaiian Homes Commission adopt the Recommendation of the Permitted Interaction Group, Appointed Pursuant to HRS 92-2.5 and HRS 10-2-16(b)(1), to Study and Recommend Strategies Related to Fairness in Lease Transfers.

The Department collects specific data about lease transfers using the three criteria identified as common to lease transfers that raise questions of fairness.

MOTION

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

DISCUSSION

Commissioner Awo stated that the submittal lacks information and content, leaving him with many questions and unwilling to move toward approval. He needs a better understanding of what is before the Commission.

Commissioner Neves chaired the PIG, and the discussion stemmed from what to do with people who buy leases and then sell them to others for profit versus what is allowed by the Hawaiian Homes Commission Act. Based on the number of people on the waitlist, the number of people who do this is less than 1% and concentrated in certain areas.

Section 208(5) of the HHCA says, “the lessee shall not in any manner transfer to, or otherwise hold for the benefit of, any other person or group of persons or organizations of any kind, except a native Hawaiian or Hawaiians, and then only upon the approval of the department, or agree so to transfer, or otherwise hold, the lessee’s interest in the tract to the following qualified relatives of the lessee who are at least one-quarter Hawaiian: husband, wife, child, or grandchild.”

The recommended motion is to collect data to understand the problem’s size. They are looking at the buyer, not the seller; is the buyer a previous lessee, or is it for sale or profit? The concern is it bypasses the waitlist. Will it be the Commission’s responsibility to make the decision? He believes it is the Department’s responsibility to make the decision. If the Commission is uncomfortable with what the PIG has now, he is more than willing to go back to discuss it.

Commissioner Awo stated he was confused by the recommendation. Collecting data won’t stop the practice.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Freitas, to approve the motion as stated in the submittal.						
Commissioner	1	2		A’OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas		X	X			
Commissioner Helm						X
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu’o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED Motion passed unanimously. Eight (8) Yes votes.						

ITEM C-2 **Approval of 2024 Legislative Proposals**

RECOMMENDED MOTION/ACTION

NAHASDA Government Relations Program Specialist Oriana Leao presented the following: Motion that the Hawaiian Homes Commission approve the 2024 Legislative Proposals for inclusion of the Legislative Package for the 2024 Legislative Session

The proposals were shared with the Governor's Policy Team, who suggested she renumber them. No. 5 is listed as Compliance on Hawaiian Home Lands in the Commissioners packets, and No. 12 on the Governor's packet.

No. 12 Relating to Compliance on Hawaiian Home Lands was withdrawn.

DISCUSSION

Commissioner Awo was not happy with No. 12 being withdrawn. Many homestead communities have asked the Department to create safe spaces. He has received numerous emails about firing illegal firearms around homes in Waiohuli, drug activity in homesteads, gambling, and a report of a murder victim dumped in a recreational area. Beneficiaries continue to ask that the Department do more to protect them. There are many violations that the Department cannot handle.

Commissioner Neves stated he supports Commissioner Awo's concern about No. 12 being withdrawn. The Department is putting its Enforcement Team in harm's way.

Commissioner Kaleikini asked what the rationale is for withdrawing the proposal.

Chair Watson stated he met with law enforcement several times and recognized from an operational standpoint that the Department did not have enough staff to respond promptly. The Department is bringing in more people to address the enforcement issue; the concern is allowing the Department's enforcement personnel to carry weapons and the ability to arrest someone. It involves a lot of training, certification, and ongoing recertification. They are willing to work with the Department to provide that support in certain situations. It puts the Department's staff in danger and disqualifies many of them from being part of this administration due to the lack of training and certification. It was the primary reason for the withdrawal. Chair Watson deferred to the Commissioners; if they still want to proceed with it, he would do it. He does anticipate the enforcement branch to oppose this legislation. They want to have oversight that personnel have the proper training and experience. That is why it was withdrawn, but it will go further if the Commission wants to go further. He does not anticipate any success.

Commissioner Awo stated that if it did succeed, it would take many years for the staff to be trained and certified as a real enforcement unit. They are not expected to go in until they have received the authority and the training. Hawaiian Homes are not Public Safety's (PS) primary concern. It is not their priority. If you send a badge and a gun into Hawaiian homes, they should be familiar with the people they serve. He likens this to DOCARE and DLNR, who have unique needs, and so does DHHL. DHHL should create an enforcement team that understands the unique needs of the homestead.

Public testimony – Patrick Kahawailoa`a. He believes in what Commission Awo is speaking about. There was an incident with a cemented water meter, and the beneficiaries of Keaukaha were fighting against DHHL. They were not arrested by DHHL's enforcement but by the Hawai'i Police Department sent by Ed Kanahele and Donald Wong. It has been over 20 years since Hawai'i County has had an MOU that noted police had enforcement powers on the homestead.

Beneficiaries pay taxes, but police do not come because of confusion. He thinks what Commissioner Awo is suggesting the Commission should think about. The Department used to have an enforcement team led by John Piper, and they got drug people out of the house and boarded up the homes. The Hawaiian Homes Commission Act is the organic document to follow what can and cannot be done. It gave the Commission the invested power to keep the beneficiaries safe.

Chair Watson asked if the Commission wants to make a motion to include HHL No. 12 regarding Compliance on Hawaiian Home Lands.

MOTION/ACTION TO AMEND

Moved by Commissioner Awo, seconded by Commissioner Neves, to include HHL No. 12 regarding Compliance on Hawaiian Home Lands in the Legislative Proposals						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo	X		X			
Commissioner Freitas			X			
Commissioner Helm						X
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves		X	X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Eight (8) Yes votes.						

MAIN MOTION AS AMENDED /ACTION

Moved by Commissioner Awo, seconded by Commissioner Neves, to include HHL No. 12 regarding Compliance to Hawaiian Home Lands in the Legislative Proposals						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo	X		X			
Commissioner Freitas			X			
Commissioner Helm						X
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves		X	X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Eight (8) Yes votes.						

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Annual Renewal of Right-of-Entry Permits, East, Central, and South Hawai'i 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 Permits, East, Central, and South Hawai'i Island

MOTION/ACTION

Moved by Commissioner Freitas, 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		X			
Commissioner Helm						X
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu'o			X			
Commissioner Neves		X	X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Eight (8) Yes votes.						

ITEM F-2 Authorization to enter into a Memorandum of Agreement with the U.S. Department of Defense to receive Federal grant funding for 'Āina Mauna Legacy Program Implementation, Mamane Reforestation Humu'ula, Hawaii Island

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio and Hawai'i Island's Land Agent Kualii Camara presented the following:

Motion that the Hawaiian Homes Commission Authorize to enter into a Memorandum of Agreement with the U.S. Department of Defense to receive Federal grant funding for 'Āina Mauna Legacy Program Implementation, Mamane Reforestation Humu'ula, Hawaii Island.

K. Camara stated in last year's Hilo meeting that he was applying for grants to implement the 'Āina Mauna Legacy Program. Items F-2 and F-3 were applications submitted particularly for the Pōhakuloa Training area for the DOD's Readiness and Environmental Protection Implementation (REPI) Program for mamane reforestation in Humu'ula. The area is designated as a conservation and critical habitat.

DISCUSSION

Chair Watson asked about the concerns and conflicts of access to the area. K. Camara stated there are many sheep in the area and concerns about where the area would be. He would appreciate guidance from the Commission if the Department will be doing a game management plan or a

subsistence management plan. The last administration had an advisory council, and he is open to restarting the group. Many people do not agree with fencing because they feel like they are being fenced out. Not-fenced areas experience the most losses of koa and ohia trees. There is more access to hunting for cattle and sheep on the 'Aina Mauna than ever. There is no program for people to gather and feed their families; the only way is to look the other way and allow them to do so.

Chair Watson stated the advisory council needs to be resurrected, and it is important to get that funding to protect the area being discussed.

Commissioner Freitas stated this has a major impact on the water supply, so how do we balance it so we can all achieve our goals, protect the areas, and provide food for the families?

Commissioner Awo stated in terms of the native forest, fencing and removal of ungulates is necessary. Kahikinui has been trying for 30 years and learned that only fenced, ungulate-free areas succeed with mamane and koa protection.

The question is -what is more important, ungulates or the native forest? In Kahikinui, they chose the forest. There is plenty of hunting on a 22,000-acre moku, even if prohibited. The argument that the Department is taking away mea ai does not wash because ungulates are roaming on the 18,000 acres that are not fenced.

Commissioner Kaleikini stated he supports restarting the advisory council and getting folks who gave testimony to help in moving forward. He would like a workshop to update on the 'Aina Mauna Plan and an update on the cattle caught, what the associations got meat, and the timeframe. As part of the MOA, it can include how the DOD and USDA can benefit the beneficiaries. The final MOA must come back for Commission review.

K. Camara stated it is a cooperative agreement, and he just received a draft from the DOD. Their fiscal year ends September 30, 2023. It is his first time going through a federal grant process of this magnitude, and it has been a learning curve for him. Chair Watson stated he does not want to miss the deadline.

Public testimony – Patrick Kahawailoa`a. He is against both Items F-2 and F-3. He is all for fencing. His concern was that the Department had already approved two vendors on the mountain to ensure that the ungulates were taken care of and there was a beneficiary benefit. It was not known by the beneficiaries that the first contract noted they were going to give pipi to the community. He stated he is not against fencing but letting people get the pipi. Since Commissioner Freitas volunteered to sit on the advisory council, he also nominated his Commissioner to sit on the advisory council. Fifty-six thousand acres and only one guy, Kualii Camara.

Commissioner Awo asked to go into executive session to discuss questionable activities.

Public testimony – TJ Forsythe. With the DOD and the USDA, his concern is that there is responsible reforestation. A fence should be. He supports reforestation, but the people need to eat, too.

Commissioner Neves asked about the political interaction. K. Camara stated the Mauna Kea road and the disposition of that road were happening at the same time as the advisory council meetings. To Uncle Pat's comments, the area is way up in the mamane, and the cattle up there

have been caught, but there are a lot of sheep, and they are trying to push the sheep makai as much as possible. There were 800 live cattle removed from the area. The Waipahoehoe area is the best forest in the Hawaiian Home Lands Trust. He stated the Department is behind the gun and must do better.

Public testimony – Jojo Tanimoto. She stated she wants to be on the committee. She did not get any response regarding the ‘Āina Mauna Legacy and would like to get a response to get some answers.

MOTION/ACTION

Moved by Commissioner Freitas, 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		X			
Commissioner Helm						X
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu'o			X			
Commissioner Neves		X	X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Eight (8) Yes votes.						

RECESS
RECONVENED

12:00 p.m.
12:22 p.m.

MOTION

Moved by Commissioner Neves, seconded by Awo, to convene in an executive session pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities. Motion carried unanimously.

EXECUTIVE SESSION IN

12:25 p.m.

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., Civil No. ICCV-23000942

EXECUTIVE SESSION OUT

1:55 p.m.

LAND MANAGEMENT DIVISION

ITEM F-3 Authorization to enter into a Memorandum of Agreement with the U.S. Department of Agriculture to receive Federal grant funding for Aina Mauna Legacy Program Implementation, Sustainable Koa Forestry, Humu‘ula, Hawaii Island

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio and Hawai‘i Island’s Land Agent Kuali‘i Camara presented the following:

Motion that the Hawaiian Homes Commission Authorize to enter into a Memorandum of Agreement with the U.S. Department of Agriculture to receive Federal grant funding for Aina Mauna Legacy Program Implementation, Sustainable Koa Forestry, Humu‘ula, Hawaii Island

K. Camara apologized for the late presentation; this has the same fiscal year and constraints as Item F-2. He stated the USDA has a Climate Smart Commodities grant and acknowledges that koa forestry is an economic driver and benefits carbon sequestration, habitat, and watershed management. DHHL will retain all the ownership of the koa grown. It has a 20% contribution over 3-5 years, and next fiscal year, he will request 20% to be added to the ‘Āina Mauna budget.

Commissioner Kaleikini stated to apply what was done with Item F-2, and he is good, i.e., the advisory and community members on the advisory.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Awo, to approve the motion as stated in the submittal.						
Commissioner	1	2		A’OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo		X	X			
Commissioner Freitas			X			
Commissioner Helm						X
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu‘o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED Motion passed unanimously. Eight (8) Yes votes.						

ITEM F-4 Approval to Issue Right-of-Entry Permit to U.S. Army Corps of Engineers, Kawaihae, Hawai‘i Island, TMK Nos. (3) 6-1-001:003; (3) 6-1-002, 003, 004, 006: various; (3) 6-2-001:012; (3) 6-2-006:003; (3) 6-6-001, 004, 007, 012: various

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:

Motion that the Hawaiian Homes Commission approve issuing Right-of-Entry Permit to U.S. Army Corps of Engineers, Kawaihae, Hawai'i Island, TMK Nos. (3) 6-1-001:003; (3) 6-1-002, 003, 004, 006: various; (3) 6-2-001:012; (3) 6-2-006:003; (3) 6-6-001, 004, 007, 012: Various

The Army Corp of Engineers will investigate the parcels for chemical contamination, containerized regulated substances, or munitions of explosives of concern.

Public testimony – Patrick Kahawaiola'a. He asked if there is some outstanding report with the Army Corp of Engineers regarding un-exploded ordinance (UXO) in East Hawai'i, Maku'u. What was the resolution with Maku'u, and if it will impact them?

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Freitas, to approve the motion as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas		X	X			
Commissioner Helm						X
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu'o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passed unanimously. Eight (8) Yes votes.						

ITEM F-5 Authorization to Enter Into a Sale of Lease at Public Auction for Industrial Purposes for the Kaei Hana II Industrial Subdivision, Kawaihae, Hawai'i Island, TMK No. (3) 6-1006:013

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:
Motion that the Hawaiian Homes Commission Authorize to Enter into a Sale of Lease at Public Auction for Industrial Purposes for the Kaei Hana II Industrial Subdivision, Kawaihae, Hawai'i Island, TMK No. (3) 6-1006:013

MOTION

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

Public testimony – Jojo Tanimoto. She stated a few lots had burial sites and is concerned that sites would be abused. After the investigation, will it open for beneficiaries? She mentioned the two flooded homes and asked if the Department would be doing anything with the two homes. She requested a response.

Chair Watson stated The lease issue must be addressed and dealt with. It must be looked at regarding drainage and flooding, and there are similar problems in other areas.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Awo, to approve the motion as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo		X	X			
Commissioner Freitas			X			
Commissioner Helm						X
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu'o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Eight (8) Yes votes.						

ITEM F-6 Approval to establish a Preliminary Condominium Property Regime (CPR) and Amend General Lease No. 294 to Kalaeloa Home Lands Solar, LLC Kalaeloa, Oahu Island, TMK No. (1) 9-1-013:029

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve establishing a Preliminary Condominium Property Regime (CPR) and Amend General Lease No. 294 to Kalaeloa Home Lands Solar, LLC Kalaeloa, Oahu Island, TMK No. (1) 9-1-013:029

He introduced David Lau, Samantha Frick, Nick Azahi, and Michelle Simms. They offered a slide presentation.

M. Simms stated there are two amendments: (1) is to request an amendment of A-2, which currently reads, "Lessee shall submit the following item for review by the Hawaiian Homes Commission." The request is to replace the Hawaiian Homes Commission with "Chairman," in this case allowing for the Chairman to sign off on the CPR documents for approval for action today; (2) to request an amendment to B-1, which currently reads, "Upon Final approval by the Hawaiian Homes Commission of the CPR as envisioned, the Annual Lease Rent shall be prorated as reflected in the General Lease 294 – Rent Payment Matrix Table below.

The request is to delete the first clause of "upon final approval by the Hawaiian Homes Commission of the CPR as envisioned" to start with action B-1 with "the annual lease rent shall be prorated as reflected, and the GL 294 Rent Payment Matrix Table. The amendments are being proposed because they are seeking to finance and finalize the project as soon as possible to meet deadlines set by Hawaiian Electric and allow for the Department, the Chairman, and the Attorney General to approve the CPR and allow action B-1 to be approved today without being contingent on the CPR approval. Once the deadlines are met, their proposal can bring value to DHHL.

David Lau, Attorney with Imanaka Sato, stated they had assisted Kalaeloa Homelands Solar and its parent company, Pivot, with the draft amendment. He added the amendments to the

Recommended Motion/Action for A-2.b, the reference to Hawaiian Homes Commission be changed to “Chairman.”

DISCUSSION

Commissioner Awo stated it is a weighty proposal with things he does not fully understand yet, and the Commission is being asked to vote on it now. He asked for an explanation. D. Lau stated it creates two separate legally defined parcels of land on top of the current TMK that can be subleased and used to finance the two projects individually. That is to accommodate the Phase 1 & 2 portions of the project. The property stands as one full parcel, and if KHLS wanted to lease the parcel to a special purpose development entity, it would need to sublease the entire parcel together instead of two separate portions. The condominium regime allows the property to be split in half without going through the subdivision process with the County.

Commissioner Neves asked when you separate the property, it will be for the same type of operation. D. Lau stated correctly. Any sublease of the two units on the land will be subject to the terms of General Lease 294. For example, under the General Lease, the property can only be used for solar conversion projects, and the same restrictions would trickle down on any sublease.

Commissioner Kaleikini asked if it is not a condominium you live in but a term used so you do not have to go through the County to subdivide. D. Lau stated correctly that a condominium property regime is a form of ownership. The split and division of ownership or property. There are portions of the property that are common elements that are owned in common by each unit owner. In this case, Unit 1 and Unit 2 are subleased, and each unit has appurtenant, like connected to the unit’s ownership, a common ownership percentage in the common areas of the project. In this case, the common elements would be the land under the project, or if the developer puts an access road going to the two units, that would also be a common element. Separate ownership together.

Commissioner Kaleikini asked if the Phase 1 proposal is for 1.72 megawatts, so would a sublease be considered for other than 2.73 megawatts? What is meant by sublease? D. Lau stated right now, the lessee of the property is Kalaeloa Homeland Solar. When the condominium regime is established, there will be two units. KHLS will be the sublessor of both units and sublease it to another subsidiary of Pivot, who would be the sublessee of each unit. Commissioner Kaleikini stated that would be the five-megawatt system.

Commissioner Kaleikini asked if this General Lease has existed for 12 years and if the Department has been working on this solar project for that long. K. Albinio responded yes, and the lease was transferred to a different party. Kalaeloa Home Lands Solar was the first to have it, and then Sun Edison and Arion bought it out in 2018.

Chair Watson stated CPR is a standard approach, and it was done at the Nanakuli Village Center and separated the parcels because of the financing. It is a separation for TMK but primarily for financing. There is no substance to it but a formality of processing documents and separating the two units. He does not see any problem with that. He asked how they came up with the \$30 reduction per month. Nick Azahi stated the economics for these projects is 15-20% of bill credit, and beneficiaries will save 15-20% of their bill. Chair Watson asked if it is contingent upon actual costs, construction, and offsets on the tax credit. N. Azahi stated they have to consider the RFP process, and if a larger amount is considered for the beneficiary, then the PPA rate would have to increase. S. Frick stated they will be working with KCDC to ensure they have the benefits suitable for the area. They will submit their proposal to HECO to see how they can maximize the

savings to subscribers. Chair Watson asked if they were certain that HECO would come out with a request. S. Frick stated absolutely.

Commissioner Neves asked if decision-making could be deferred to tomorrow. Commissioner N. Azahi stated time is of the essence with them and HECO. Chair Watson assured that a decision will be made.

Public testimony – Chantel Keliho`omalu is the Executive Director of Kapolei Community Development Corporation, a 501(c)3. The non-profit serves the four homesteads in Kapolei. She asked that the Commission support KCDC's request to work with Pivot Energy on negotiating a benefits package. KCDC has not had sufficient time to negotiate with Pivot Energy or speak with the leaders of the homestead associations in the region. She asked that the Commission support them in exercising their right to self-determination and the ability to work on their behalf with Pivot Energy.

Public testimony – Carlene Marie. She asked if anyone in the company is a beneficiary or Hawaiian; it is based in Honolulu or the Hawaiian islands. S. Frick stated that none of the owners are native Hawaiian. C. Marie stated that \$333 per acre, non-beneficiary for 25-years. N. Azahi stated the Department's advisory committee set the rent. No homes or commercial buildings can be built there because the FAA does not allow any structure over 10 feet high, and there should not be any movement in that parcel that will distract the pilot. She asked about the benefit to Hawaiians. S. Frick stated the benefits to the community are being actively worked out with KCDC to put together a benefits package.

Public testimony – DeMont Manaole. Stated he would like to hear from HECO and what they are willing to do. He supports a preference for native Hawaiians, especially on industrial lands. HHC Act 207-C-1.b regarding mercantile establishments, all shall be owned by native Hawaiians or by organizations formed and controlled by native Hawaiians. He hopes this Chairman and this Commission understand that the Trust was made for the beneficiaries. If an entity is not owned or controlled by a native Hawaiian organization, it should not be able to get anything from the Department. He asked to table this matter to another time when the lahui can have full input, and the Commission can hear from HECO. Hawaiians pay \$5,000 for 1 acre, and Pivot will pay \$10,000 for 29.8 acres.

Public testimony – Patrick Kahawailoa`a. The community benefits will be paid to anybody who ties into HECO. Generate the power on Hawaiian home properties and the general public benefits. He reminded the Commission that the community he comes from, those lands were infringed upon for the general public, including the Hilo airport. Marginal lands were given to the Hawaiian people, where in 1924, Congress stated that not even a cat could not live on the land.

Chair Watson stated the item is **DEFERRED** to tomorrow.

ITEM F-7 Approval to Issuance of Revocable Permit to Kani Inc., Oahu Island, TMK No. (1) 9-1-013:024 (por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve issuing a Revocable Permit to Kani Inc., Oahu Island, TMK No. (1) 9-1-013:024 (por.), for temporary storage for its trucks and machinery on a 1-acre land in Kalaeloa. There are conditions listed in the submittal.

Public testimony – Patrick Kahawailoa`a. He is confused that matters of O`ahu are on Hawai`i island because he would be upset if Hilo items were addressed on Kaua`i. This individual is a native Hawaiian and should be given the preference and need to flourish in these economic times.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Awo, to approve the motion as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo		X	X			
Commissioner Freitas			X			
Commissioner Helm						X
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Eight (8) Yes votes.						

ITEM F-8 Approval to Issuance of Revocable Permit to Ke Kula Nui O Waimanalo, Oahu Island, TMK No. (1) 4-1-019:032

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve to the Issuance of Revocable Permit to Ke Kula Nui O Waimanalo, Oahu Island, TMK No. (1) 4-1-019:032, for community use in accordance with a 501c3, on a 1.5 acre portion of Hawaiian home lands in Waimanalo. The conditions are stated in the submittal.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Freitas, to approve the motion as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas		X	X			
Commissioner Helm						X
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Eight (8) Yes votes.						

ITEM F-9 Authorization to Enter Into a Sale of Lease at Public Auction for Industrial Purposes for the Shafter Flats Industrial Development, Moanalua, Honolulu, O‘ahu Island, TMK Nos. (1) 1-1-064:018; (1) 1-1-064:019; (1) 1-1-063:020; (1) 1-1-064:021; (1) 1-1-064:022; (1) 1-1-064:034; (1) 1-1-064:035; (1) 1-1-064:033; (1) 1-1-064:032; (1) 1-1-064:031

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission Authorize to Enter Into a Sale of Lease at Public Auction for Industrial Purposes for the Shafter Flats Industrial Development, Moanalua, Honolulu, O‘ahu Island, TMK Nos. (1) 1-1-064:018; (1) 1-1-064:019; (1) 1-1-063:020; (1) 1-1-064:021; (1) 1-1-064:022; (1) 1-1-064:034; (1) 1-1-064:035; (1) 1-1-064:033; (1) 1-1-064:032; (1) 1-1-064:031. The conditions are listed in the submittal.

DISCUSSION

Commissioner Neves asked to explain the term “Enter into a Sale of Lease.” K. Albinio stated the Attorney General’s office guided him to use that term. It is a public auction and is not a sale of the land.

DAG Kau said pursuant to Chapter 171, for unencumbered lands, you have to enter into a public auction before entering into any general lease. This has been commonly seen on the agenda as authorization to general lease. It is a formal terminology in alignment with the statute.

Commissioner Kaleikini asked what the process is for this. K. Albinio stated it will be an appraisal because existing industrial lands expire at the beginning of next month. When the lands come back to the Department, it will conduct the due diligence and whatever is needed before the auction.

MOTION/ACTION

Moved by Commissioner Freitas, 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		X			
Commissioner Helm						X
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu’o			X			
Commissioner Neves		X	X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Eight (8) Yes votes.						

ITEM F-10 Approval to Issue Right-of-Entry Permit to EC Trucking LLC, Kalaeloa, Oahu Island, TMK No. (1) 9-1-013:024 (por.)

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 EC Trucking LLC, Kalaeloa, Oahu Island, TMK No. (1) 9-1-013:024 (por.) The sole member is Carlene Maria.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Awo, to approve the motion as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo		X	X			
Commissioner Freitas			X			
Commissioner Helm						X
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu'o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Eight (8) Yes votes.						

ADMINISTRATIVE SERVICES OFFICE

ITEM H-1 FY25 Budget Request

RECOMMENDED MOTION/ACTION

Acting Administrative Services Officer Brian Furuto presented the following: Motion that the Hawaiian Homes Commission approve the FY25 Budget Request

The request asks the Commission to approve this budget so the Department can ask Budget and Finance and the Governor to introduce this in the Governor's Executive Branch Budget. The approval is also to approach the Legislature, as necessary, to request the Department's budget. The approval is also to make corrections to the budget for technical and omissive errors.

The FY25 budget request is built upon the four purposes of Section 1 of Article XII: (1) lot development, (2) loans, (3) rehabilitation projects, and (4) administrative and operation budget. Details are listed in the submittal.

DISCUSSION

Commissioner Awo asked for more time to review the submittal in greater detail. He requested to defer decision-making to tomorrow's meeting.

There were no objections. The item was **DEFERRED** to the Tuesday agenda.

ITEM H-2 Transfer of Hawaiian Home Receipts Fund Money at the End of the 1st Quarter, Fiscal Year 2024

RECOMMENDED MOTION/ACTION

Acting Administrative Services Officer Brian Furuto presented the following:

Motion that the Hawaiian Homes Commission approve the transfer of the entire receipts deposited in the Hawaiian Home Receipts Fund as of September 30, 2023, to the Hawaiian Home Administration Account

The Hawaiian Homes Receipt Fund at the end of September 30, 2023, is roughly \$700,000, which the Department is asking the Commission to approve to transfer to the Hawaiian Home Administration Account.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Awo, to approve the motion as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo		X	X			
Commissioner Freitas			X			
Commissioner Helm						X
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED Motion passed unanimously. Eight (8) Yes votes.						

ITEMS FOR INFORMATION/DISCUSSION

HOMESTEAD SERVICES DIVISION

ITEM D-1 HSD Status Reports

- A. Homestead Lease and Application Totals and Monthly Activity Reports
- B. Delinquency Reports for Information Only – DHHL’s Draft Legislative Package

No Discussion

LAND DEVELOPMENT DIVISION

ITEM E-1 For Information Only – East Hawaii Projects Update

RECOMMENDED MOTION/ACTION

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

The LDD team presented the Commissioners with the East Hawai'i Projects update in Honouliuli, Keaukaha, Pana'ewa, Piihonia, Kaumana, Maku'u, and Ka'u.

Kalani Fronda is tasked with assembling a program to address the vacant parcels throughout the pae'aina that would involve vertical improvements and a financing package. It would include what Stewart addressed about putting in a package, including a catchment system and an independent wastewater system.

Commissioner Neves asked if the catchment system would be an individual community catchment system or if it would be a community one. S. Matsunaga stated it would be an individual catchment and wastewater system.

Piihonia – The Department is looking to develop 31 residential lots.

Commissioner Kaleikini asked if the Department does not get sufficient sums approved for this, then what? S. Matsunaga stated that the Department cannot proceed with the environmental assessment for this project.

Commissioner Kaleikini asked what about Act 279. S. Matsunaga stated that Act 279 funding for the next year and beyond is committed to projects identified in the Strategic Plan approved by the Commission in 2022. Chair Watson stated unless the Department revises the budget. S. Matsunaga stated that Item E-3 is about Act 279, and we can discuss it then.

Ka'u – Discovery Harbor: DHHL has 40 scattered lots

- 2 Leases occupied
- One lot in recordation
- Seven lots in the process
- 30 lots available for new residential awards

Chair Watson asked if the Department was spinning its wheels because it had made offers before, and there were no takers. K. Fronda stated the awards went three times to the 6,000 island-wide waiting list, and eight were awarded lots.

In response to Commissioner Neves' question about who maintains the golf course, S. Matsunaga stated that the Discovery Harbor subdivision is governed by DCCR covenant, rules, and fees, which is of concern. Commissioner Neves stated that is one of the problems.

Ka'u Water System Improvement would be a water-filling station with a spigot. It was explained to the Ka'u community that a distribution plan would need to be developed. The water is designed to serve the 25 pastoral lessees and not the general public. The Department has reached out to the County DOWS to send its plans and specifications, as the Department has not gone in that direction.

Future Phase 2 of the Ka'u Water System Improvements is to:

- Relocate existing waterlines within lots
- Improve South Point Road
- Install water laterals for water meters for the 25 pastoral lots
- The estimated cost is \$20 million
- Proposed request to legislation in the fiscal supplemental budget 2024-2025

Chair Watson stated there are 25 users, and the Department is looking at a price tag of \$20 million. He does not feel motivated to spend \$20 million for 25 homesteaders when it can be used to house a thousand homesteaders.

Public testimony – Patrick Kahawailoa`a. The Discovery Harbour lands were received in a settlement. The Hawaiians are having a problem with the DCCRs. He is concerned about the 25 pastoral lots given in 1986 during the acceleration. It was noted that Waiohinu was not conveyed to the Department. DLNR stated the lands had to be executive order to the Department. The Department had oversight of the land, but according to the DLNR, the land was given to the Department, and all the DLNR needed was to have roads on the land to get to Ka`u Springs because that is where the water is. The people in Ka`u need the water to get to their pipi, but the Commission gave Kamehameha Schools free rent.

ITEM E-2 For Information Only – Request for Qualifications Procurement Process

RECOMMENDED MOTION/ACTION

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

The Request for Qualifications Procurement is for professional services procurement governed by Section 103D-304, which requires contracts for professional services based on demonstrated competence and qualification for the type of services required and at fair and reasonable prices. The RFQ process evaluates a prospective developer's track record in previous projects, current staffing and financial capabilities and capacity, and unique approaches or solutions to financial marketing issues. The developer's costs are negotiated before a development agreement is executed. Offsite infrastructure and development costs are expensed from Act 279, SLH 2021. House or unit financing are developer costs. Should a development budget not be agreed upon, DHHL has the right to terminate negotiations and commence negotiations with the next highest-ranking respondent.

DISCUSSION

Chair Watson stated it is a different approach to what the Department has historically done, which is slow-moving and ineffective. The Legislature mandates the Department for Act 279 with a deadline to encumber the funds, and one way is to consolidate the collection of parcels where an RFQ is put out. The developer takes care of many of the preliminary development issues that the Department typically addresses in-house.

ITEM E-3 For Information Only – Implementation Progress Report for Act 279, Session Laws of Hawaii 2022, as of August 31, 2023

RECOMMENDED MOTION/ACTION

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

The Department has encumbered \$193 million as of the end of fiscal year 2023, June 30, 2023. The submittal matrix shows the projects encumbered at the end of FY 2023. The Department is requesting an additional \$175 million for release from Budget & Finance, and the Governor and LDD are working with ASO to push that release of funds. The table on pages 1 and 2 of the submittal shows the projects that involve the \$175 million.

There was a public meeting as part of HR10 for the committee that tracks the implementation of Act 279, and the Attorney General opined that the encumbrance of the \$600 million lapsing date would be June 30, 2024. It differs from what is written in Act 279, which is June 30, 2025. Chair Watson indicated that going through an RFQ process involves bundling different components of the projects and making it a larger project would encumber more funds quicker. LDD does appreciate that the Chairman is actively getting additional staff as LDD is working on about \$1 billion worth of projects.

DISCUSSION

Chair Watson asked if the Department has already exceeded \$600 million. S. Matsunaga confirmed that if all the projects being vetted right now are contracted, then the Department will almost double the need for Act 279 funding, and this does not include existing CIP funds appropriated by the Legislature that are not Act 279 funds.

Chair Watson stated that one flexibility of Act 279 is acquiring new lands. The Department has put out an RFP with how many proposals? S. Matsunaga stated there were 18 proposals submitted. He hopes to target 5,000 new homes for the beneficiaries and does not think that is unrealistic. He stated that he has prepped the Legislature that the Department is coming in for more money because the \$600 million is insufficient.

Commissioner Kaleikini asked if there are no specific locations on Project A through E; would it be because the Department is going through the RFQ process? S. Matsunaga stated there are specific locations, but they are in negotiations, so the offers cannot be disclosed.

Chair Watson stated in the past two years; the Department has been getting more NAHASDA monies, which can be used to do the transitional houses, kupuna houses, and the ADUs. There is other funding out there.

PLANNING OFFICE

ITEM G-2 For Information Only - East Hawai'i Water Issues and Projects Update

RECOMMENDED MOTION/ACTION

None. For Information Only. Planning Program Manager Andrew Choy and Consultant Dr. Jonathan Likeke Scheuer presented the update on the East Hawai'i Water Issues and Projects.

Key Water Issues & Updates

- HHC passed the Water Policy Plan (WPP) in 2014 – a comprehensive policy on water management
 - WPP Goal 1 – affirmatively communicate with beneficiaries regarding water decisions, performance, and water rights on a regional and annual basis.
1. State of Hawai'i Proposed Water Leases
 - a. Wailuku River, Hilo
 - b. Ka'u spring / tunnel sources
 2. DHHL interests in deep confined ground water on Hawai'i Island

Where are Leases NOT being considered?

- Hawai'i – Kehena Ditch; Waimea water systems; Richard Ha Hydroelectric plant; Hu Honua

- Maui – Honokohau Ditch; Wailuku Water Company; Honokowai tunnels
- Molokaʻi – Molokaʻi MWS; Molokaʻi MIS
- Oʻahu – Waiahole Ditch
- Groundwater, in general

DHHL Concerns

- Lease revenue
- Diverting funds to watershed funding

DISCUSSION

Commissioner Kaleikini asked to restate the 30%. The idea for implementing the Act was resistant, and the revenue resources for implementing the Act was 30% of any sugar lands lease revenue, as they were excluded from homesteading, and 30% of any water lease revenue receipts. The State of Hawaiʻi is the Trustee of old water. There is no such thing as privately owned water in the State. Withdrawing water from the state ground should be subject to a lease and a lease payment. 30% of the revenue given to the State should be coming to the Department.

Note: Slide presentation attached.

ANNOUNCEMENTS AND RECESS

1. Video of the Hawaiian Homes Commission Limited Meeting of Sunday, September 17, 2023, will be posted on the Department of Hawaiian Home Lands' website no later than September 18, 2023.
2. DHHL Community Meeting September 18- Keaukaha Elementary School Cafeteria, 240 Desha Avenue, Hilo, Hawaii, 96720

RECESS

5:10 p.m.

HAWAIIAN HOMES COMMISSION

Minutes of September 19, 22, 2023

Grand Naniloa Resort – Sandalwood Room, 93 Banyan Drive, Hilo, HI 96720, 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
Makai Freitas, West Hawai'i Commissioner
Michael L. Kaleikini, East Hawai'i Commissioner
Walter Kaneakua, O'ahu Commissioner
Sanoe Marfil, O'ahu Commissioner
Pauline N. Namu'o, O'ahu Commissioner
Dennis L. Neves, Kauai Commissioner

EXCUSED

Zachary Z. Helm, Moloka'i 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 9:38 a.m. Eight (8) members were at the meeting location, establishing a quorum.

Chair Watson announced the Commission would start with the Public Testimony on Agendized Items, then the carry-over items from yesterday's agenda, Items D-11, F-6, H-1, G-3, and G-4, and finally the J-Agenda items. The Commission will recess for lunch at noon, and at 2:00 p.m., the Commission will recess again to address the two Contested Case Items.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

PT-1 Isabelle Vincent –

I. Vincent stated the Department of Water is charging the beneficiaries a surcharge and a consumer charge of \$150. Why are the people waiting so long to get on the land? Chair Watson stated the Department could look at the water issue and see what can be done. Regarding the people on the waiting list who cannot qualify or afford turn-key homes, the Department is looking

at different approaches and exploring different options and loan products. There will be rent with the option to purchase and rent subsidies. He referred her to Juan Garcia regarding her lessee and application questions.

PT-2 Emily Naeole -

E. Naeole stated her dad and her brothers died waiting on the waitlist. There are 50 lots in Maku'u, and people are waiting for lots. There is water only in certain places and a water line, but no water. She has an issue with the geothermal on Hawaiian lands. She has been in Maku'u for 35 years.

PT-3 Jackson Gay - Item F-6

J. Gay testified that there has been a lot of delay with Pivot, and they do not have a benefits package. There is no native Hawaiian on their board. F-6 needs to go back to the drawing board. Put solar on every Hawaiian house and tie them to the grid. That is a good benefits package. Kumu DeMont had it right when he asked where HECO is in this.

PT-4 DeMont Manaole – Item F-6

D. Manaole testified that it is an industrial area and you cannot build homes there. He supports and believes in solar. There is no Hawaiian on the Pivot board. The item is not ready to move forward. He asked that the item be deferred until they do due diligence and talk to the lahui. Pivot needs to talk to the lahui.

PT-5 Carlene Maria – Item F-6

C. Maria testified if Pivot Energy is planning to sublease some of the acreage, they do not need the whole 30 acres. She thinks they need money, so they want to sublease the land they are not occupying. She has waited over a decade to use the land. She is for solar, but if the solar farm were to catch fire, is there an appropriate backup to extinguish the fire? She also believes HECO should be available for questioning.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

ITEM D-11 Approval to Postpone Direct Loan Payments for those Maui Lessees whom the Lahaina Wildfires have impacted

RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Juan Garcia, Homestead Loans Services Manager Dean Oshiro, and Loans Specialist Gerald Lau presented the following:

Motion that the Hawaiian Homes Commission approve to Postpone Direct Loan Payments for those Maui Lessees who have been impacted by the Lahaina Wildfires.

D. Oshiro stated they are trying to mirror a program the Commission approved for COVID-19 where payments were deferred. At that time, the submittal was for all lessees. This submittal is

for the Maui lessees that were affected. The Commission may want to include “Maui County,” and Moloka`i lessees who worked on Maui may have been affected. Loan Specialist Gerald Lau was asked to the table because he handles the Maui and Moloka`i accounts. There have not been any calls from Moloka`i lessees, but the amendment could be so if the Commission desires. The request is to have this implemented so the lessees can be granted a postponement of their payment.

DISCUSSION

Commissioner Awo commented that this is necessary and appreciated the thought of using Maui County as there could be beneficiaries in Moloka`i affected by the loss of jobs. This works hand in hand with the Mortgage Relief funds provided by NAHASDA to CNHA.

Chair Watson asked to explain postponing if the payments are put on the back end. D. Oshiro stated the Department does not collect payments. However, the interest is deferred. It still accrues but is pushed to the back end of the loan.

Chair Watson asked how they handled it due to the shortage of DHHL workers. D. Oshiro stated they work with the lessees, and when they say they need it, the loan officer will process the documents for fiscal. He will insert a mailer in the monthly statements if this is approved. With the lessee’s approval, their statement payments will reflect “zero.”

D. Oshiro stated it is only the loans the Department is servicing. The Department does not have control over loans in private sector.

MOTION/ACTION TO AMEND

Moved by Commissioner Awo, seconded by Commissioner Freitas, to amend the motion to expand to Maui County beneficiaries.						
Commissioner	1	2		A’OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo	X		X			
Commissioner Freitas		X	X			
Commissioner Helm						X
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu’o			X			
Commissioner Neves			X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Eight (8) Yes votes.						

MAIN MOTION AS AMENDED/ACTION

Moved by Commissioner Marfil, seconded by Commissioner Freitas, to approve the amended motion to expand to Maui County beneficiaries.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas		X	X			
Commissioner Helm						X
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil	X		X			
Commissioner Namu'o			X			
Commissioner Neves			X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passed unanimously. Eight (8) Yes votes.						

LAND MANAGEMENT DIVISION

ITEM F-6 Approval To Preliminary Condominium Property Regime (CPR) and Amendments to General 294, Pivot Energy, LLC Kalaeloa, O'ahu Island, TMK No. (1) 9+-1-013:029

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approved to establish a Preliminary Condominium Property Regime (CPR) and Amendments to General 294, Pivot Energy, LLC Kalaeloa, O'ahu Island, TMK No. (1) 9-1-013:029. It is a two-part motion:

- A. Approval for "KHLS" as Lessee to establish a Preliminary Condominium Property Regime (CPR) for the premises under General Lease No. 294, covering 29.853 acres of Hawaiian home lands identified by TMK No. (1) 9-1-013:029, and more specifically delineated in Exhibit "A" subject to the following conditions. The conditions are listed in the submittal.
- B. Subject to the preliminary approval of the CPR referenced above, approve to amend GL 294 as particularly identified and described below and further reflected in and Amendment Draft attached hereto as Exhibit "B". Conditions are listed in the submittal.

Michelle Simms requested the following amendments at the Monday meeting:

- (1) is to request an amendment of A-2, which currently reads, "Lessee shall submit the following item for review by the Hawaiian Homes Commission." The request is to replace the Hawaiian Homes Commission with "Chairman", in this case allowing for the Chairman to sign off on the CPR documents for approval for action today; (2) to request an amendment to B-1 which currently reads, "Upon Final approval by the Hawaiian Homes Commission of the CPR as envisioned, the Annual Lease Rent shall be pro-rated as reflected in the General Lease 294 – Rent Payment Matrix Table below. They are requesting to delete the first clause of "upon final approval by the Hawaiian Homes Commission of the CPR as envisioned" to start with the action of B-1 with "the annual lease rent shall be prorated as reflected, and the GL 294 Rent Payment Matrix Table.

David Lau requested the additional amendment as follows:

- He added the amendments to the Recommended Motion/Action for A-2.b, the reference to Hawaiian Homes Commission be changed to “Chairman”.

Corrections to the map and additional information to the financial benefits was distributed to the Commissioners by David Lau.

Total Payments to DHHL			Total Benefits to Beneficiaries		
Category	Phase I	Phase II	Category	Phase I	Phase II
Rent	\$830,350.07	\$2,558,833.87 + applicable option payments	Community Benefits (6% of Annual Lease)	\$49,821.00	\$153,530.03
1% of actual gross revenue	\$127,121	\$146,721	Estimated subscribers discount		\$4,860,000.00
Total	\$957,470.85	\$2,705,554.91	Est. Total	\$49,821.00	\$5,013,530.03
Grand Total	\$3,663,025.76		Est. Grand Total	\$5,063,351.04	

MOTION

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

DISCUSSION

Commissioner Neves asked if the benefits package was a one-time or annual payment. Samantha Frick stated they are flexible and initially offered a one-time payment. DHHL provided an example of annual payments. They are in conversations with KCDC about what their preference is.

Commissioner Kaleikini asked, from 2011 to date, if revenues were generated. N. Azari stated he does not have the exact numbers, but revenues were generated along with other developers, which is over \$1 million.

Commissioner Kaleikini asked how many beneficiaries would participate. S. Frick stated the projected household for Phase II is 675. He asked to talk about subleasing. K. Albinio stated if there is no success in getting the Phase II project, they might sublease to another entity for funding.

Public testimony - Kauai Almeida (inaudible)

Commissioner Freitas stated the staff does a lot to get the word out. He hears her concern about beneficiary consultation, but it falls on the community to get the word out and mobilize their community. If KCDC and the community have done their due diligence and are okay, it impacts his decision.

Public testimony – Emily Naeole. She does not like to share her stuff with anybody. She has issues when she sees her money get shared with the general public.

Public testimony – DeMont Manaole. It was mentioned that the Native Hawaiian community would have the first chance to be subscribers to their service. It is ironic how we will first have to purchase something from these people who are gaining from our homelands. They cannot charge

the beneficiaries for the water, but they charge for the service to get the water. Beneficiaries have to pay for the power and electricity to Pivot for the power they are getting from the beneficiaries' homeland. KCDC does not speak for all the associations, as there are presidents for the different homesteads. Pivot's responses are all hypothetical. Concrete information is needed, what will and will not be, and what will happen if it is not done. The contract has to be written for both sides to be favorable.

Public testimony – Carlene Maria. She researched the price of the \$300 per acre per month and found that it was \$.12. Pivot is offering to pay less than a penny per sq. ft. \$333 per acre a month is something she cannot see how will benefit DHHL, or anybody but Pivot. Pivot should be paying fair market value. \$120,000 a year for 30 acres. To her, this has to be changed.

Commissioner Awo requested to go into executive session for legal questions on the contract.

Public testimony – Patricia Teruya. She is concerned that Pivot has been here since 2012 and asked if they did their due diligence. When an ROE is requested in Kalaeloa, due diligence has to be done. She spoke to two homestead presidents who were not aware of Pivot's Pivot's communication with just KCDC. If Pivot does sublease, will part of that subleased rent go to the Department? She hopes the Commission will look at this, defer it, and let them do the due diligence. ROE is year-to-year, and Pivot wants 25 years. Let Pivot do the due diligence, the beneficiary consultations, and speak with the other homestead leaders.

MOTION

Moved by Commissioner Awo, seconded by Freitas, 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

11:00 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:

ITEM F-6 Approval to Preliminary Condominium Property Regime (CPR) and
Amendments to General 294, Pivot Energy, LLC Kalaeloa, O'ahu Island, TMK
No. (1) 9+-1-013:029

EXECUTIVE SESSION OUT

11:50 AM

Chair Watson stated the Commission discussed General Lease 294 and the CPR and will defer the item (audio difficulties). Pivot should do outreach with all the homestead associations, not just KCDC, and also reach out to the other beneficiaries in the homesteads island-wide to inform them of the proposed benefits. The Commission would also like to re-examine the terms of the agreement regarding rent being paid and confirm that the proposed benefits truly reflect the economic conditions present. When Pivot returns, the Commission wants to see a solid, confirmed benefits package agreed to by the associations and the beneficiaries and not negotiations, but an actual solid benefits package. The Commission wants to make an informed decision knowing that the beneficiaries are taken care of and feel they are covered by everything they want. The Commission wants to ensure that what the Department is getting in the deal reflects the market.

Chair Watson stated staff would guide them on how to do the outreach in the manner the Department uses and to be thorough and that notes be kept for the consultation.

Item F-6 is **DEFERRED**.

Chair Watson asked that comments be kept on point and timely as there are three more items plus twelve more beneficiaries who want to present their matters. The Commission has to leave at 3:30 p.m. so everyone can catch their planes.

ADMINISTRATIVE SERVICES OFFICE

ITEM H-1 FY25 Budget Request

RECOMMENDED MOTION/ACTION

Acting Administrative Services Officer Brian Furuto presented the following:
Motion that the Hawaiian Homes Commission approve the FY25 Budget Request so the Department can present it to Budget & Finance and the Governor to include it in his FY25 budget.

DISCUSSION

Commissioner Kaleikini stated he is pleased that there is a proposal to increase staffing. B. Furuto stated this allows the Department to put this proposal within the executive branch budget. The Governor or Budget & Finance can say it is too much of an ask and cut it back.

Commissioner Awo stated this is a wish list. He liked that there were compliance officers on there.

MOTION/ACTION

Moved by Commissioner Kaleikini, seconded by Commissioner Freitas, to approve the motion as stated in the submittal.						
Commissioner	1	2		A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas		X	X			
Commissioner Helm						X
Commissioner Kaleikini	X		X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves			X			
Chairman Watson			X			
TOTAL VOTE COUNT			8			
MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED Motion passed unanimously. Eight (8) Yes votes.						

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

PLANNING OFFICE

ITEM G-3 For Information Only – Update on King’s Landing Kuleana Settlement Plan and Environmental Assessment Process

RECOMMENDED MOTION/ACTION

None. For Information Only. Planning Program Manager Andrew Choy and Project Manager Julie Cachola presented the following:

Update on the King’s Landing Kuleana Settlement Plan & Environmental Assessment Process

- Background on King’s Landing (Keaukaha Tract II) Malama Ka `Aina, Hana Ka `Aina (MAHA)
 - People have been on the land since the 1960s
 - King’s Landing is at the end of the road from Kuleana Tract I
 - MAHA was started in 1983
 - In 1983, a task force was appointed by the Governor and the Secretary of the Interior to do a comprehensive review of every facet of the HHCA to make recommendations on ways to accelerate the distribution of benefits to beneficiaries.
 - In 1984, the HHC approved a Right-of-Entry agreement with MAHA (ROE 76)
 - In 1986 – 1987 A community management plan for DHHL, Keaukaha Tract II, MAHA’s Plan
- Background on the Kuleana Homestead Program, §10-3-30, Hawai`i Administrative Rules
 - King’s Landing in Hilo and Kahikinui on Maui
 - In 2000, MAHA operated a community building (ROE 274), and MAHA established a code of conduct for members and a standard of construction and performance. MAHA would be empowered to discipline violators.
 - In 2022, MAHA requested a meeting with the HHC. The HHC created a PIG to investigate issues at King’s Landing.
- Kuleana Settlement Plan and Environmental Assessment (presenter was Barbara Atau)
 - Actions, dates, and details are listed in the submittal/presentation
 - Concerns from the MAHA community
 - Priority of MAHA members for lease awards
 - Clarification on acreage from old ROE/Current ROE/Planning area
 - How to enforce locked gates and remove abandoned cars
 - Exploring aquaculture lease opportunities
 - Concerns for future hazards and outside influences
 - Sea level rise and how it will affect coastal areas
 - Need for evacuation road to airport
 - Concern about airport expansion
 - Creating a plan with DHHL/Police to remove Non-MAHA members
- Unresolved Issues
 - Beneficiaries who have raised their kids and grandkids in King’s Landing (4th generation) want 99-year homestead leases.

- Want their kids/grandkids to be able to take over their leases
- The influx of new people in the community has created problems
- Right-of-entry agreements help but are not the same as a homestead lease.

DISCUSSION

Andrew Choy stated the beneficiary consultation #1 meeting will be on October 24, 2023. Commissioner Kaleikini asked if there is a timeframe for awarding leases. A. Choy stated there is a timeframe that takes them to the end of the planning process. Planning will return to the Commission in February 2024, and we hope to have the final Settlement Plan and the final EA in April 2024.

Commissioner Awo asked for a briefing before the final; this is new and complex, and more information helps to get to the end goal.

Chair Watson stated that regarding leases, we are talking about a 1300-acre site that is pretty large. J. Cachola stated they have expressed an interest in subsistence agriculture. A. Choy stated they would have a more solid recommendation once they go through the beneficiary consultation and get the mana`o of what folks see.

Chair Watson also noticed that because it is kuleana, the Department is not looking at anything other than infrastructure funding. There is an effort for flexible criteria for building their residential ag houses. The Department needs to be active in providing funding and assistance in developing a building code that results in safe houses to withstand storms. A loan program may need to be created, independent of our typical products. They are going to need financial assistance.

Note: Slide presentation attached.

Chair Watson announced that Item G-4 is **DEFERRED**.

REQUEST TO ADDRESS THE COMMISSION

ITEM J-1 Skippy Ioane, Ainaaloha Ioane, Gracie Flores, Herman Costa, Nawai Laimana, Lehua Angay, John Waipa – MAHA (Malama Ka `Aina Hana ka `Aina) Updates

Ainaaloha Ioane shared with the community where they could view the MAHA website. She presented the website, MAHA's background and mission of the King's Landing community, photos of her dad and friends, and photos of kupuna. The website also has information about the land tenure of King's Landing and when it came into the Hawaiian Home Lands inventory in 1921. She gave a short bio of herself. The members of MAHA provided their testimony.

Skippy Ioane regarding kuleana land, the person's determination will make the difference in how the person will take care of the land and its community. Necessity is the mother of invention. The people in their tents should be offered the dignity of their poverty.

Gracie Pakani-Flores stated she is one of five generations and was raised in King's Landing. She lives in Waiokawa Bay in King's Landing. She thanked the Department for moving forward with the process of kuleana homesteading designation. She asked that the Department consider amending its Administrative Rules to give preference to the King's Landing beneficiaries who have been residing in King's Landing for generations when it comes to lot selection and awarding

of leases. She addressed the safety concerns and the lack of enforcement in the community, as non-members reside in and access King's Landing.

Lehua Angay has been with King's Landing since 1998. Her dad raised her and her brother to live off the land and live off-grid. Her father passed away before she and her brother could succeed, and she does not have quantum, and her children have 47% and do not meet quantum. Her children's dad is Jonathan Waipa and has been a part of MAHA since 2000, and they both play a part in helping to govern MAHA. She asked for preference to the administrative rules to keep residing on the land.

`Ainaaloha requested an update from Land Management and asked if the Department secured a third party to help remove structures and vehicles within King's Landing. The front gate is still open, allowing unauthorized people to move into King's Landing. The County Park has advised leaving the Lehia gate open until DHHL secures the King's Landing gate. Lehia has been experiencing negative effects, with both gates being left open.

Nawai Laimana is the Secretary of MAHA. She spoke of her childhood.

ITEM J-2 Kaulani Almeida – Pana`ewa Hawaiian Home Lands Community Association

K. Almeida talked about an initiative of Save Puhi Bay shoreline in Keaukaha. She stated the pipes for the wastewater need to be calibrated to zero waste. She introduced Brittany Zimmerman, who did a presentation to the Commission.

B. Zimmerman talked of her extensive background as an engineer designing aircraft and then working with NASA. Her specialty is keeping humans alive. About 1.5-3 million gallons of wastewater are dumped into Puhi Bay daily. They are working on a solution to bring the waste in and turn it into clean water that will be free to the community. They turn waste into reusables. She stated she is investing about \$300 million to build up the pilot facility they are considering. There is no need for investments from communities, county, government, and DHHL. She is asking that they and the Department work together on this and requesting a spot on the agenda to do their presentation so the Commission can see some of the solutions they have been working on. They need help in ways that will honor the people here. They have built the solutions so the facilities and the benefits get injected into the community.

Chair Watson asked where the \$300 million is coming from. She stated it comes from her. Chair Watson stated he looked forward to seeing her presentation. K. Almeida stated they are asking for the usage of the land. Chair Watson stated they could go through the details at the presentation.

ITEM J-3 Pat Kahawaiolaa – Keaukaha Community Association

P. Kahawaiola`a stated he did send an email regarding his concerns for Keaukaha. He supports Brittany Zimmerman's initiative. She is spending her money, and others do not want to listen. He believes what she says about turning waste into non-waste. He would appreciate it if the Commission gave her the chance.

ITEM J-5 Leila Kealoha, Lauae Kekahuna – Maku`u Hawaiian Homesteads

L. Kealoha represents the Maku`u Farmers Homestead Association, the kupuna, and those still waiting on the waitlist. She is checking on the time frame for the lots and the signage for their homesteads. She asked if the Department would work on that. How can they address the 51 unawarded lots on the homestead? Family members cannot get their lands because they have to get pre-approved for the loans. They are owner-builders who can build their own and would like to look at a cost analysis of small structures for families, i.e., the electrical, plumbing, water, and possibly solar. She stated that they will provide that and are working on getting the cost analyst together to work with the Department.

Commissioner Awo requested that the Department that Kalani Fronda update the Commission regarding the 51 unawarded lots in Maku`u.

ITEM J-8 Kekoa Enomoto – Pa`upena Community Development Corporation

K. Enomoti read what she submitted to the Commission regarding the Lahaina wildfires and the fast track on the construction of houses. DHHL Planning staff met with the East Maui beneficiaries to discuss rule changes that wildfire-displaced wait listers would have first right to West Maui lots in the cases of Lahaina. She supports these Administrative Rules changes. She also supports the Governor's bill expediting the building of Lahaina homesteads subdivisions and Leiali'i 1-B and Honokowai to provide needed shelter for those native Hawaiians amidst Maui's ongoing housing crisis.

She invited the Commissioners to the day-long SCHHA's Maui Relief Summit on October 20, 2023, and the 3-day SCHHA Annual Conference starting January 12, 2024. Both events will be held at the Maui Beach Hotel. There were three points she wanted to touch on (1) to provide emergency semi-permanent or permanent housing for the wildfire-displaced waitlist beneficiaries; (2) to provide affordable, sustainable homeland housing, and (3) to encumber \$8.5 million from the unencumbered \$400 million Act 279 funds.

She introduced two women who presented their PowerPoint slides, Christine Kaehuai`a from Na`alehu and Lehuanani Keali`inohomoku.

Relief Housing Project on 58 acres of the Honokowai Homelands Acres. A part of the Honokowai project will be segregated for this housing. I highlighted the three points that K. Enomoto pointed out. It is a beneficiary-driven project in which her company can provide and build one of the houses on the Hamakua side, solar, electric wind, and water catchment for the homes. Their products are completely off-grid, and the water tanks are built into the building of the homes and a multi-level UV filtration and reverse osmosis of the kitchen sink. This light version of the home will be built for the Honokowai houses. They do offer options to obtain water for the homes. They are looking for 7500 sq. ft lots on 58 acres. The packet that the Commission has shows what is included in the houses. The ask is for the portion of the Honokowai parcel to create the off-grid, lighter subdivision for constructing 303 new construction homes alongside Stargazer Industries and their tiny house products. They look forward to moving this project forward.

Chair Watson asked them to contact Kalani Fronda, who is looking for different construction approaches. The site is part of the Master Plan, and the Department is now focusing on the subsistence Ag lots. The RFQ will probably be put out for Leiali'i, and he welcomed them to submit their qualifications.

Commissioner Awo asked if they have anything on Hawai'i Island that has been completed yet. C. Kaehuai'a stated no. Commissioner Awo stated submitting their application for the RFQ gets them before the Commission. He asked if they were registered in the State of Hawai'i. C. Kaehuai'a stated yes.

Note: Slide presentation attached.

Chair Watson stated the Commission is taking a 60-minute recess for the Contested Case Hearings. Items J-10, J-11, and J-12 will be addressed when the Commission returns.

RECESS 2:00 PM
RECONVENED 3:20 PM

ANNOUNCEMENTS AND ADJOURNMENT

- A. Next HHC meeting – October 16 & 17, 2023, Na'alehu Courtyard by Marriott Kahului Airport, Haleakala Ballroom.
- B. Next DHHL Community Meeting – October 16, 2023 – Maui Waena Intermediate School, 795 Onehee Avenue, Kahului, Hawai'i 96732

MOTION/ACTION

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


ADJOURNMENT 3:20 PM

Respectfully submitted:



Kali Watson, Chairman
Hawaiian Homes Commission

Prepared by:



Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

Attachments:

- 1) Public Testimony - Kekoa Enomoto
- 2) Public Testimony - Jojo Tanimoto
- 3) Public Testimony - Makuu Farmers Association

From: [Kekoa Enomoto](#)
To: [Burrows-Nuuuanu, Leatrice W](#)
Subject: [EXTERNAL] Written public testimony on agendized items
Date: Friday, September 15, 2023 4:30:20 PM

Aloha e Na Hawaiian Homes Commissioners,

I would like to offer written public testimony on agendized items, as follows:

- F-1, F-2, F-3, F-6, F-7, F-8 and F-10 for approval of permits to various trust lands. I respectfully request that DHHL Land Management Division indicate, on these and all similar requests for permit approval, if the respective permittee is a beneficiary or beneficiary entity.
- F-5 and F-9 regarding sale of trust lands at public auction. My concerns are that (1) LMD seeks to sell trust lands with infrastructure while beneficiary leaders, notably on Kaua'i, urge DHHL to purchase lands, often without infrastructure; (2) how can one ensure that the trust will secure the assessed value of lands sold at public auction? (3) doesn't such land transactions require DOI and/or congressional approval? and (4) I call for a beneficiary consultation on the latter proposed auction transactions, just as DHHL required Pa'upena Community Development Inc. (an IRS 501c3 nonprofit beneficiary organization) to undergo a beneficiary consultation in its seven-year, ongoing quest to access trust 'aina for farming/ranching-related training of lessees and waitlisters.

Alongside or perhaps in place of LMD, I call for a DHHL division whose purpose is to empower beneficiaries and beneficiary organizations to access expeditiously and to manage effectively their own trust lands for entrepreneurial, nonprofit and other appropriate means.

Me ka 'onipa'a kakou,

-Kekoa Enomoto

Chairwoman of the board,

Pa'upena Community Development Inc.

(808) 276-2713

From: [Jojo Tanimoto](#)
To: [Burrows-Nuuuanu, Leatrice W](#)
Subject: [EXTERNAL] Hawaiian Homes Commission testimony, September 18, 2023 Item F1, F4, F5
Date: Wednesday, September 13, 2023 10:48:26 AM

Aloha Commissioners

My name is Jojo Tanimoto and I reside in the Kailapa subdivision, in Kawaihae.

Mahalo for hearing my past testimonies regarding the needs of the Kawaihae community.

My testimony regarding Item F1-the lands in Kahua Ranch, which include ROE-Palekoki Ranch.

1-We need potable water. There is a proposal to access 2desal wells, but no ROE infrastructure access, too.

2-We need an Evacuation Plan and we need 2 Evacuation Routes; from Kailapa to either Kohala Ranch or better, to the Kohala Mountain Road. The Mountain Road will allow DHHL to follow the Kawaihae Master Plan-Residential, Ag lots and hopefully other sources of water.

Item F5-Kohala Cement Co for public auction. I have a concern about what type of Industrial Proposal that the Department MIGHT entertain for these Industrial lots , going forward. The cement dust is a major health problem for the beneficiaries across the highway. Originally, this type of business was awarded, but there was no residential development. Through the years, these beneficiaries had no say about their health, their investments, etc.

Going forward, I would ask that the Department fix this problem.

Item F4—6-1-002:060, is located next to the Palihae stream. Currently I testified about the bulldozing of this stream that floods this beneficiary's lease and the boundary pins need to be replaced. This lot is across the Kawaihae Harbor and when the sea level rises, it sometimes back flows. Hopefully USACE can help the Department mediate this problem too. This is a historic home, built before the Harbor. When the highway gets flooded, Civil Defense closes this highway. We (and all the traffic back to Kohala) have no evacuation exit.

There are historic sites in this TMK, that have not yet been registered. This community has no funds and assistance to do so. Please ask the Department to register these important burials, locations, buildings, cultural and historical resources. (List attached).

Page 1

Sent from my iPhone

MFHHA Hālāwai with DHHL Commission

1. Maku‘u Farmers Hawaiian Homestead Association Homestead security concerns
 - a. Kunewa lot
 - b. Keahilihau, Jewel Mae
 - c. Huihui
 - d. Iaukea-Enos, Gerard
 - e. We have requested all incident reports submitted from MFHHA to our East Hawaii District office as this has been a long standing issue, over 3-years now. We do have our own records and respectfully ask for your folks records to ensure we have been heard and all is documented
2. Signage
 - a. We need help with the installation of signs in our homesteads
 - b. We need updated signs “Government property, No Trespassing”: 20-total, All unawarded lots need a “Government property, No Trespassing” signs: 52-total
3. Unawarded/Awarded lots
 - a. Unawarded/awarded lots have the same issues
 - b. We are having more issues with awarded lots
 - c. We are requesting a meeting with Kalani Fronda on the unawarded lots
4. Waitlist
 - a. How do we rectify our ‘ohana who have died on the waitlist?
 - b. Codes:
 - i. What are the priority codes? A, B, C
 - ii. How do we get in touch with those who have mail codes: K, I, D
 - c. Why is Maku‘u not listed as an area for AG on the waitlist? All other areas are listed
 - d. Why are you purchasing more land when we have land available?
5. Water
 - a. We do not support the water connection between the homesteads and Makuu subdivision (HPP)
 - b. We support the well development, yet we need the water energized on the 2-acre
 - c. <https://www.dpw.hawaiicounty.gov/home/showpublisheddocument/306471>
6. Money
 - a. The money should go towards current lands owned by DHHL, not purchasing new land. Home-owner builder
 - b. Support for our community center
7. Programs @ Market/Mala
8. Maps:
 - a. Red is unawarded lots

b. Brown are awarded but not occupied

