

HAWAIIAN HOMES COMMISSION
Minutes of April 15, 2019
Kūlana ʻŌiwi, Kalamaʻula, Molokaʻi, Hawaiʻi

Pursuant to proper call, the 710th Regular Meeting of the Hawaiian Homes Commission was held at Kūlana ʻŌiwi, 600 Maunaloa Highway, Kalamaʻula, Molokaʻi, Hawaiʻi, beginning at 9:00 a.m.

PRESENT Jobie M. K. Masagatani, Chairman
Randy K. Awo, Maui Commissioner
Zachary Z. Helm, Molokaʻi Commissioner
David B. Kaʻapu, West Hawaiʻi Commissioner
Michael P. Kahikina, Oʻahu Commissioner
Pauline N. Namuʻo, Oʻahu Commissioner
Wren Wescoatt, Oʻahu Commissioner

EXCUSED Wallace A. Ishibashi, East Hawaiʻi Commissioner
Vacant, Kauaʻi Commissioner

COUNSEL Craig Iha, Deputy Attorney General

STAFF William Aila Jr., Deputy to the Chairman
Paula Aila, Contact and Awards Division Manager
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Homestead Services Division Administrator
Niniau Simmons, NAHASDA Manager
Stewart Matsunaga, Acting Land Development Division Administrator
Andrew Choy, Acting Planning Program Manager
Leah Burrows-Nuuanu, Secretary to the Commission
Cedric Duarte, ICRO Manager
Debra Aliviado, Customer Service Manager
Julie Cachola, Planner
Nancy McPherson, Planner
Toni Eaton, Maui District Supervisor
Gene Ross Davis, Molokaʻi District Supervisor
Juan Garcia, Oʻahu District Supervisor

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 8:59 a.m.
Seven (7) members were present at roll call. The Kauaʻi seat was vacant.

APPROVAL OF AGENDA

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Namuʻo, to approve the agenda.
Motion carried unanimously.

APPROVAL OF MINUTES

Chair Masagatani deferred the June 2018 Minutes to the Tuesday agenda.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Bo Kahui La‘i ‘Ōpua 2020 and Villages of La‘i ‘Ōpua Re: C and D Items

B. Kahui stated that La‘i ‘Ōpua approves of the consent agenda. He requested a beneficiary consultation with staff for rooftop systems because it takes over a year to get one approved by the Department.

B. Kahui thanked Commissioners Wallace Ishibashi and Chair Jobie Masagatani for their service to the Hawaiian Homes Commission. He acknowledged her tenacity and bravery in harnessing the challenges of the Commission.

Regarding the Native Hawaiian Housing Block Grant Annual Housing Plan, he suggests that the Commission look to put in at least a million dollars to help build the communities.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following:
To approve the Consent Agenda as listed in the submittal.

DISCUSSION

Chair Masagatani asked Commissioners if there were any Items from the Consent Agenda that they wanted to move to the Regular Agenda. There were none.

- ITEM D-2** Approval of Consent to Mortgage (see exhibit)
- ITEM D-3** Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)
- ITEM D-4** Approval of Homestead Application / Cancellations (see exhibit)
- ITEM D-5** Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)
- ITEM D-6** Approval of Assignment of Leasehold Interest (see exhibit)
- ITEM D-7** Approval of Amendment of Leasehold Interest (see exhibit)
- ITEM D-8** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- ITEM D-9** Approval of Subdivision, Transfer of a Portion of Department of Hawaiian Home Lands Residential Lease No. 2892, Lot No. 130-A-1, Keaukaha, Hawaii –
SHIRLEY ANN KAGAWA

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Wescoatt to approve the Consent Agenda. Motion carried unanimously.

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-3 Acceptance of 2019-2020 Native Hawaiian Housing Block Grant Annual Housing Plan

RECOMMENDED MOTION/ACTION

NAHASDA Manager Niniau Simmons presented the following:

Motion that the Hawaiian Homes Commission accepts the 2019-2020 Native Hawaiian Housing Block Grant Annual Housing Plan.

MOTION

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

DISCUSSION

N. Simmons explained that the Department submits a Housing Plan to HUD annually. HUD's approval authorizes the Hawaiian Home Lands to utilize the NAHASDA funds for the activities outlined in the Housing Plan. This year, the Homeowners Financing and Repair program is continuing and the interim construction financing for the first 60-units of the rent with option to purchase program at La'i `Opua.

With the available balance, the focus has been on the new construction financing in Waiohuli, and some funding in Kakaina, Kauluokahai, and East Kapolei 2B. N. Simmons stated that model activities are a catch-all phrase for non-housing activities identified in 24 CFR, part 1006, in which the Department can engage in model activity in terms of a pilot project, or associations can engage in model activity for community center development as well as safety CPR training.

ACTION

Motion carried unanimously.

HOMESTEAD SERVICES DIVISION

ITEM D-10 Request to Schedule Contested Case Hearing – IMOGENE K. MAIO (Deceased), Residential Lease No. 3485, Lot No. 32, Paukūkalo, Wailuku, Maui

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following:

Motion to deny a request to schedule a contested case hearing for Imogene K. Maio. The recommendation is to deny the request made by Ms. Terri Miller and Ms. Laura Johnson.

MOTION

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

DISCUSSION

Maui District Supervisor Toni Eaton stated that the Department's position is to deny the request by Ms. Miller and Ms. Johnson. Imogene Maio's (deceased) intent was to transfer her lease to her cousin Terri Miller, but the transfer was never effectuated, and the lessee passed away.

There has been no violation of the Hawaiian Homes Commission Act, the Hawai`i Administrative Rules, or the Lease itself.

ACTION

Motion deferred.

ITEM D-11 Request to Schedule a Contested Case Hearing – **GREGORY CHAD K. PUAOI** (Deceased), Agricultural Lease No. 2970, Lot No. 99-A & 99-B

ITEM D-12 Commission Designation of Successor - **GREGORY CHAD K. PUAOI** (Deceased), Agricultural Lease No. 2970, Lot No. 99-A & 99-B, Ho‘olehua, Moloka‘i

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro asked that Items D-11 and D-12 be taken together as they are connected.

D. Oshiro presented the following: the first is a request to schedule a contested case hearing for Gregory Chad K. Puaoi, brought forward by his mother, Mrs. Lillian Puaoi. The Department’s recommendation is to deny the request.

The second submittal, should the first be denied, is the Department’s recommendation of a Commission designation of a successor for Gregory Chad K. Puaoi, to name his wife, Yolanda Kehaulani Puaoi, as the successor and lessee of agricultural lease No. 2970.

D. Oshiro introduced Moloka‘i District Supervisor Gene Ross Davis to present the motion to deny Mrs. Lillian Puaoi’s request for a contested case hearing regarding the successorship of her late son, Gregory Chad Puaoi’s lease No. 2970.

MOTION

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

DISCUSSION

G. Davis gave a brief history. The lease was originally held by Ernest Puaoi, Sr., who transferred the lease on May 20, 2002, to his son, Herman E. Puaoi. Herman Puaoi passed away in 2012 without naming a successor. The Department published a public notice to all interested and eligible people. Gregory Chad Puaoi was a brother to the decedent, and Lillian Puaoi, the mother to the decedent, submitted their respective claim to succeed the lease. Pursuant to Section 209, Gregory Chad was awarded the lease.

In 2015, Gregory Chad Puaoi passed away without naming a successor. In compliance with Administrative Rule 10-3-63, a public notice was issued, and Yolanda Puaoi, wife of Gregory Chad Puaoi, and Lillian Puaoi, mother to Gregory, submitted their claim to the lease. Yolanda has been determined to be qualified and eligible to succeed to the lease. Although Lillian Puaoi submitted successorship claim to her son’s lease, Yolanda has priority pursuant to Section 209 of the Hawaiian Homes Commission Act.

ACTION

Decision making deferred until after the executive session, which will be some time this afternoon.

RECESS

10:05 a.m.

RECONVENED

10:12 a.m.

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

HOMESTEAD SERVICES DIVISION

ITEM D-14 For Information Only – Extension of Kalama‘ula & Ho‘olehua Homestead Leases.

RECOMMENDED MOTION/ACTION

None. For information only. O`ahu District Office Supervisor Juan Garcia presented the following:

DISCUSSION

On July 3, 1990, Governor John Waihe`e signed Senate Bill 269 into law, also known as Act 305. The law amended section 208 of the Hawaiian Homes Commission Act authorizing the Department of Hawaiian Home Lands (Department) to extend the original lease term from 99 years to an aggregate term of not more than 199 years. On October 30, 1990, the Hawaiian Homes Commission (Commission) authorized the Department to extend all homestead leases from 99 years to an aggregate term of not more than 199 years. The Department, with the concurrence of the Commission, recommended prioritizing the granting of lease extensions to lessees securing loan financing. In addition, priority was also granted to lessees with less than 31 years remaining on their initial 99 years. The lenders require a lease extension as a condition of the loan approval. There are existing situations where lessees have no need for loan financing, and so there are no correspondence requirements for an extension of their lease terms. There are also situations where a lease transaction was not processed, and so there was no lease extension initiated.

The first homestead community was established in Kalama‘ula, then shortly after, in Ho`olehua. There are currently 113 leases in Kalamaula and Ho`olehua combined. Of the 113 leases, 48 leases have been amended to extend for an additional 100 years. There are 11 lease transactions in process to extend their lease terms. There is a total of 54 leases scheduled to expire in 2-1/2 years in Kalamaula and Ho`olehua. Lease extensions require amendments to the existing lease terms and conditions which are subject to the Hawaiian Homes Commission’s approval. Lessees are encouraged to contact the Moloka‘i District Office and to submit a written request to have their lease terms extended for an additional 100 years.

LAND DEVELOPMENT DIVISION

ITEM E-1 For Information Only – Molokai Island Capital Improvement Project Updates

RECOMMENDED MOTION/ACTION

None. For information only. Acting Land Development Division Administrator Stewart Matsunaga presented the following:

DISCUSSION

The presentation covered capital improvement and repair and maintenance projects on Moloka`i. The first project is the Ho`olehua Water System improvements with proposals to make improvements at the well site for replacement of pumps and about 4-miles of pipeline in various locations within the system. The total budget for this project is a little over \$31 million which is spread out between a USDA loan of \$7.4 million, a USDA grant of \$11.6 million, DHHL's contribution from the trust fund of \$12.9 million and from the Legislature, CIP funds of \$500,000.

The Moloka`i Veterans and Homestead Residence Center, a joint-use facility for the Moloka`i Veterans and the DHHL Homestead residents. The bids opened last month, and the Department is going through the evaluation of the bids to ensure that they follow the procurement rules. For the Lanikeha Center, LDD is going through an assessment of the current Individual Waste-water System (IWS). There is no sanitary sewer within the Ho`olehua area, so LDD is evaluating both short-term and long-term construction of a new system and disposal method.

The Ho`olehua scattered lots site improvements, LDD is working to create 21 new agricultural lots from existing unawarded parcels. We have \$1.5 million, and we will start the environmental work as well as starting the designs.

Another Legislative appropriation for \$1.5 million is specified for Na`iwa Subdivision improvements. These lots were awarded during the mid-80's acceleration. LDD is going in to do the environmental assessment and documentation. Ho`olehua Subdivision and Naiwa Subdivision will be combined into a single design contract, and the same will be with the environmental assessment.

ITEMS FOR DECISION MAKING

LAND MANAGEMENT DIVISION

ITEM F-1 Annual Renewal of Right of Entry Permit(s), Moloka`i Island

RECOMMENDED MOTION/ACTION

Deputy William Aila presented the following:

Motion that the Hawaiian Homes Commission approves the following actions while developing a process to make a short-term agricultural and pastoral lot dispositions available to beneficiaries:

- A. Renew all Moloka`i Island Right of Entry Permit(s) as listed on Exhibit "A" and identified by approximate location on the Moloka`i Island Map Exhibit "A-1" that are complying, and issue temporary approvals as of May 1, 2019.
- B. The annual renewal period shall be on a month-to-month basis, for up to twelve (12) months, but no longer than April 20, 2019, or at the next scheduled HHC meeting on Moloka`i island, whichever occurs sooner.
- C. Authorize the Chairman to negotiate and set forth other terms and conditions that may be deemed to be appropriate and necessary.

MOTION

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

DISCUSSION

Deputy Aila stated that a beneficiary consultation that has gone on with regards to the Commission setting a right-of-entry policy as well as the short-term lease policy.

ACTION

Chair Masagatani deferred the Motion to after lunch until more information can be found on Monsanto.

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

REQUEST TO ADDRESS THE COMMISSION

ITEM J-7 Bo Kahui – La‘i ‘Ōpua 2020 and Villages of La‘i ‘Ōpua Homestead Association

B. Kahui stated that the Association would be coming up with a transmittal form to work with the Department on rooftop photovoltaic systems to improve communication with the Department. He asked the Commission to consider the \$2 million La‘i ‘Ōpua needs to do the exploratory Well. He asked the Commission to consider setting aside some land for Hawaiians who exceed the income qualifications. For La‘i ‘Ōpua 2020, B. Kahui stated that they would be going back to D.C. and find support for the Associations.

ITEM J-8 Kekoa Enomoto – Pa‘upena Community Development Corporation and DHHL Land Development Division Capacity

K. Enomoto spoke about the capacity of Pa‘upena CDC and the capacity of the DHHL Land Development Division (LDD). She asked the Commission to invest in the capacity of Pa‘upena CDC. They intend to give back to those people on the waitlist.

K. Enomoto talked about the capacity of DHHL’s Land Development Division, and it is a bottleneck through which all-island projects must pass. She recommended that Maui has its project manager, or every neighbor island has its own project manager.

The Maui Mokuupuni Council asked the Commission to consider two things:

1. If there is a drug house and a lessee does nothing about it and does not report it to the district supervisor, then the Mokuupuni Council’s position is that there should be zero tolerance, that lessee should forfeit his or her lease.
2. The Council is asking the agenda packets to be out on Wednesdays so the Council can meet on Thursdays. The packet is delivered on Fridays or Saturdays, and the beneficiaries are forced to meet on Sundays, which is a Church day for the beneficiaries.

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner 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

12:10 p.m.

The Commission anticipates convening in 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 these matters.

1. Discussion on Contested Case Issues and Process
2. Update on Enforcement and Lease Compliance on Hawaiian Home Lands

EXECUTIVE SESSION OUT

1:59 p.m.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

ITEM D-11 Request to Schedule a Contested Case Hearing – **GREGORY CHAD K. PUAOI** (Deceased), Agricultural Lease No. 2970, Lot No. 99-A & 99-B, Ho`olehua, Moloka`i.

RECOMMENDATION/MOTION

Motion was to deny Mrs. Lillian Puaoi's request for a Contested Case Hearing regarding the Successorship of her late son, Gregory Chad Puaoi.

DISCUSSION

Chair Masagatani stated that the Commission recognizes that this is a difficult matter for the family. As Commissioners and as the Department, decisions are based on the law, the investigation, and what the rules allow.

ACTION

Motion carried unanimously.

ITEM D-12 Commission Designation of Successor – **GREGORY CHAD K. PUAOI** (Deceased), Agricultural Lease No. 2970, Lot No. 99-A & 99-B, Ho`olehua, Moloka`i.

RECOMMENDATION/MOTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion to approve the designation of Yolanda Kehaulani Puaoi as the Successor to Lease No. 2970.

MOTION/ACTION

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

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

PLANNING OFFICE

ITEM G-3 For Information Only – Molokai Planning Projects Status

RECOMMENDATION/MOTION

None. For information only.

Acting Planning Program Manager Andrew Choy and Grants Specialist Gigi Cairel presented the following:

DISCUSSION

G. Cairel distributed a list of projects completed on Moloka`i as well as projects that have been budgeted for and implemented by the Department and the community. The Department's overall planning system consist of 3-tiers:

- First-tier - The General Plan
- Second-tier - Strategic Program Plans and Island Plans
- Third-tier - Regional Plans, Development Plans, and Special Area Plans

To implement these plans requires funding, or sometimes Legislation or administrative rules. G. Cairel stated that the Department might have to look at the land use designation and possibly amend the Island Plan if the land use designation must be changed.

The Regional Plan for Moloka`i was done in 2019; it is a community-driven plan. The plan is being updated, the beneficiary consultation meetings started in November 2018, and community meeting #4 was just completed last week. Twenty-seven community projects have been identified, and the Department is going through a prioritization process. A vision statement and a list of values have been drafted, and at the last meeting the community asked for more time to review the drafts and provide comments.

ITEM G-4 For Information Only – Molokai Water Projects Update

RECOMMENDATION/MOTION

None. For information only.

Acting Planning Program Manager Andrew Choy and Planner Nancy McPherson presented the following:

DISCUSSION

N. McPherson stated that the project is in response to beneficiaries having shoreline erosion along their lots. The Department did inspections, and documented the shoreline issues and realized there is a serious problem along the South shoreline homestead lands of Moloka`i. By 2015, the Department was able to get a practicum class to do a report of Coastal Resilience for -DHHL Communities, which is posted on the DHHL website. Kapaakea and Kamiloloa were the first areas focused on, and in 2018 the contract was signed, and that project is underway. N. McPherson stated that the project was to help the Department proactively plan for and manage shoreline erosion, understand the causes and how it might progress, identify management strategies that can restore the environment, and protect the needs of the homesteaders to know

their lots are safe. It is not a plan to do relocation or manage retreat, which is more of the Island plan level.

Water Resource Management Specialist Halealoha Ayau provided updates on the Moloka'i Water Projects and Issues. H. Ayau gave a summary of the Kukui Moloka'i Inc., case.

H. Ayau stated that with the conclusion of Kukui Moloka'i, DHHL's staff and its consultant have been working to develop its water use permit application. DHHL will be seeking authorization from CWRM for its current pumping and for additional pumping to allow full use of DHHL's existing well in Kalae. DHHL's current permitted amount is 367,000 gallons per day; the current capacity of DHHL's well is 595,000 gallons per day.

In 2009, DHHL, the Office of Hawaiian Affairs (OHA), and the Department of Water Supply (DWS) funded the USGS to develop a groundwater model for Moloka'i. The study identified three critical points:

1. There is enough water for all public trust uses.
2. There is no scenario in which the Ranch pumps at what they have requested, 1.2 mgd, where there is no impact resulting in increased chloride levels for the DHHL and County w to levels of concern.
3. Although the official CWRM sustainable yield of the Kualapu'u aquifer is five mgd, the model shows that due to the constraints of geology and hydrology, it appears one cannot pump more than 4.5 mgd without impacting the chloride levels of existing wells and coastal discharge to levels of concern. DHHL will take the lead in coordinating a community meeting on Moloka'i with USGS, County DWS, CWRM, and Moloka'i Ranch.

GENERAL AGENDA

REQUEST TO ADDRESS THE COMMISSION

ITEM J-2 Moloka'i Homestead Farmers Alliance – Certified Kitchen Update

Faith Tuipulotu, President of the Moloka'i Homestead Farmers Alliance (MHFA), presented an overview. In 2017, MHFA received the GIA grant for \$1.75 million and completed the renovations in May, with some money left over. The next step is to put up solar at their facilities in Lanikeha certified kitchen. In 2018 the kitchen was certified. MHFA Assistant, Rosie, stated that for the solar, they have all the approvals and are waiting for the parts to come in, then they will have solar up at Lanikeha.

Wade Nakayama, owner, and operator of Lena Blue Services stated that his company provides septic cesspool pumping inspections. He was asked to explain deficiencies in the system. The Lanikeha leak was a freshwater leak, not a wastewater spill. To dig up the solid waste can cost \$350k to \$500k. Proper maintenance on the system, once every 5-years, will be a fraction of the cost.

ITEM J-3 Kalamaula Hawaiian Homestead Association – Erosion Plan

Brent Nakihei testified as to the Vice President of Kalama'ula Hawaiian Homestead Association and Chairman for the Community Concerns Committee. There are two concerns that stand out in their community; the first is flooding. The association is going to open the streams to prevent

overflow and water going over the embankment by clearing out the kiawe trees and fauna. The second is the firebreak, and the association will address the whole Kalamaula, from the plumeria farm all the way to Ooloolo Street. There's a road that was cut years ago for the fire, but the association is going to make road wider, 24 ft. wide and 1.5 miles long. The association is applying for grants to get the projects done. They are asking the Commission's support. Heli Silva-Ducaroy is the President of the Kalamaula Hawaiian Homestead Association. She stated that Kalamaula was not included in the regional planning process for the rising sea-level. There are approximately 15 homes in Kalama'ula that are in the flood zone area. Kalamaula wants to be recognized.

ITEM J-1 Stephanie Lauifi – Blood Quantum Issue

Kapua Lauifi testified as a 4th generation homesteader who supports the blood quantum being reduced to 1/32, which passed in 2017. K. Lauifi stated that she has been meeting with the Department of the Interior (DOI). K. Lauifi said her concern is that the DOI sent questions to the DHHL in February and a modified questionnaire sheet in 2018.

Legislative Analyst, Lehua Kinilau-Cano, stated that some of the questions are information that the Department does not have readily accessible. As an example, the DOI is asking for the order of magnitude, what are the number of lessees now that are less than 25% Hawaiian. The Department does not have that information readily available, and a lessee can change its successor at any time. The DOI is trying to look at and ask the questions that Congress asked when the blood quantum was lowered to 25% in anticipation of the conversation that would result from proposal.

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-4 For information only - Update Administrative Rules for Management of Water Systems

RECOMMENDED MOTION/ACTION

None. For information only. Administrative Rules Officer Hokulei Lindsey presented the following:

DISCUSSION

In January 2018, the Commission approved the Department's request to proceed to formal rulemaking on rules dealing with the water systems owned by the Department. In the approval, the Commission authorized the Chairman to make administrative changes within the document. This presentation will update the Commission on what those administrative changes were because some of the changes have to do with dollar amounts for penalties for delinquent payments, obstructed meters and tampering with the service laterals and meters. Penalties for delinquent payments are now specified as follows:

- a \$25 service charge for any dishonored checks
- a late payment charge of 1% of the outstanding balance per month, or a fraction thereof
- a \$25 recurring obstructed meter charge per month, and if the Department must clear the obstruction, there is a \$25 charge

- tampering with the service laterals and meters is a misdemeanor, and any person found tampering is liable for all costs associated with the repair. A late payment fee of 1% per month against the cost of repair

GENERAL AGENDA

REQUEST TO ADDRESS THE COMMISSION

ITEM J-4 Cora Schnackenberg – Project proposal

C. Schnackenberg is the President of the wait listers' association, the Ahonui Ualapue Homestead Association. She provided the Commission with two handouts; one is the 2016 waitlist, and these are the people she represents today. She stated that Blossom Poepoe has been on the waitlist since 1961. B. Poepoe stated that she is upset with the Hawaiian Homes system because she has been on the list for a long time, and she is seeing lots of people who weren't born when she applied to live on homestead. C. Schnackenberg said the second handout is a proposal for Ualapue to follow along with the PowerPoint presentation. She also mentioned that their association sent out a letter to the Hawai'i Congressional Delegation and the State Legislature to have a two-day workshop for the people on Moloka'i to learn and understand the changes that are impacting them today.

ITEM J-5 Harry Purdy – Agriculture Lease

H. Purdy III testified as a 3rd generation homesteader born and raised in Ho`olehua, Moloka'i. He requested additional agricultural homestead lands, which is Lot 4B, 35-acres, Lihipali Avenue, Ho`olehua, Moloka'i. He lives on Lot 4A and has been trying to acquire Lot 4B, and in 2000 he was approved for a revocable lease, RPO 233, at \$444 per year. Thus, he expanded his business growing more trees. In 2009 he requested water and had a water meter connected in June to DHHL's water tank located above Lot 4B. In 2016 he received news from the Hawaiian Homes Commission granting him a dollar per year fee as a beneficiary of Lot 4B, rather than paying \$444 per year fee for the right of entry. Today, April 15, 2019, he stands before the Commission frustrated trying to acquire Lot 4B. He asked the Commission for their support.

Chair Masagatani stated per the Administrative Rules before the Department can make that 35-acres available they have to offer it first to those on the waiting list. The Commission and the Department's program is based on the law and the rules. In this case, what you are asking the Commission to do is to add these 35 acres to your lease. The application for additional agricultural lands is placed on the waitlist. If the lot were a remnant, small piece of land, it would have the potential to add that to the lease. It is not a remnant, and it's a large lot that could be homesteaded. The rules don't allow the Commission just to give you the 35 acres, and the Department has to offer it to those on the waiting list first. The Commission would be in direct violation of its rule.

ITEM J-6 Wa'akapaemua Canoe Club – Malama Park

Sybil Lopez testified as to the President of Wa'akapaemua Canoe Club and was joined by Board member Penny Martin. The club has approximately 100 members, ages 8 to 70+ years. The club teaches and perpetuates Hawaiian traditions and paddling. The club advocated for the special land use designation of Mālama Park, and with that designation can now continue the process of planning. S. Lopez mentioned that the club's focus is to preserve the wetlands. P. Martin stated that the wetlands are important in filtering toxins from the runoffs and keeps the crops clean. The club wants to be good stewards of Malama Park.

REGULAR AGENDA

PLANNING OFFICE

ITEM G-1 For Information Only – Beneficiary Consultation Report for the Kahikinui Moea Ku Wind Energy Project Proposed by Sempra Renewables, LLC, Kahikinui, Maui, TMK (2) 1-9-001:003 (portion)

ITEM G-2 For Information Only - Beneficiary Consultation Report for the Solar Energy Project Proposed by Innergex Renewables USA LLC, at Kalaeloa, Oahu, TMK 9-1-013:040 and 9-1-013:038

RECOMMENDATION/MOTION

None. For information only. Acting Planning Program Manager Andrew Choy and Planner Julie Cachola presented beneficiary consultation summaries for renewable energy projects Items G-1 and G-2.

DISCUSSION

J. Cachola stated that 381 letters were sent to lessees and applicants that reside in the 96790 zip code, Kula, Maui. On January 2, applications were received for Kahikinui and four applications for Kalaeloa, one being disqualified for not meeting the requirements of being an energy producer. The selection committee selected Sempra for Kahikinui. Since being there, Sempra has had a good relationship with the community.

For Kalaeloa, Innergex Renewables USA LLC was selected. Innergex has experience dealing with native nations in Canada. Innergex is recommending a solar project for Kalaeloa. The consultation meeting for Kalaeloa involved 1453 invitations mailed to applicants and lessees that live in Kapolei. Only nine people attended the meeting. The community was interested in knowing how they could participate and how they could directly benefit.

ITEM G-5 For information only - Legislative Updates 2019

RECOMMENDATION/MOTION

None. For information only. Legislative Analyst Lehua Kinilau-Cano presented the legislative updates for 2019.

DISCUSSION

L. Kinilau-Cano stated that the Legislature did something different this year and passed the operating budget, which was signed into law as Act 5. The sufficient sums requested for DHHL's operating budget for each fiscal year was a little over \$50 million. The Governor identified \$25 million for each fiscal year for the Department. The Department is now being treated like every other state department, and the funds are coming out of budget and finance. Funding levels remain the same for operating general funds.

The CIP budget will come out in a separate bill. The Governor included \$20 million for lot development and \$5 million for R&M for each fiscal year. The Senate cut in half at \$12.5 This Commission approved a bill that would have repealed the sunset date for the Department's affordable housing credits. The Legislature did not agree to repeal the sunset, so it is being considered for an extension for another 5-years. That bill is in conference.

RECESS

6:13 P.M.

HAWAIIAN HOMES COMMISSION
Minutes of April 16, 2019
Kūlana ʻŌiwi, Kalamaʻula, Molokaʻi, Hawaiʻi

PRESENT Jobie M. K. Masagatani, Chairman
Randy K. Awo, Maui Commissioner
Zachary Z. Helm, Molokaʻi Commissioner
David B. Kaʻapu, West Hawaiʻi Commissioner
Michael P. Kahikina, Oʻahu Commissioner (arrived 9:09 a.m.)
Pauline N. Namuʻo, Oʻahu Commissioner
Wren Wescoatt, Oʻahu Commissioner

EXCUSED Wallace A. Ishibashi, East Hawaiʻi Commissioner
Vacant, Kauaʻi Commissioner

COUNSEL Craig Iha, Deputy Attorney General

STAFF William Aila Jr., Deputy to the Chairman
Paula Aila, Contact and Awards Division Manager
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Homestead Services Division Administrator
Niniau Simmons, NAHASDA Manager
Stewart Matsunaga, Acting Land Development Division Administrator
Andrew Choy, Acting Planning Program Manager
Leah Burrows-Nuuanu, Secretary to the Commission
Cedric Duarte, ICRO Manager
Debra Aliviado, Customer Service Manager
Julie Cachola, Planner
Nancy McPherson, Planner
Toni Eaton, Maui District Supervisor
Gene Ross Davis, Molokaʻi District Supervisor
Juan Garcia, Oʻahu District Supervisor

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:06 a.m.
Six (6) members were present at roll call. Commissioner Kahikina arrived later. The Kauaʻi seat was vacant.

APPROVAL OF MINUTES

Chair Masagatani asked if there were any amendments to the June 2018 Minutes. There were none.

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Awo, to approve the Minutes.
Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Bo Kahui Re: Items D-11 and C-3

Bo Kahui stated that he made comments yesterday with respect to the model activities on the Native Hawaiian Housing Block Grant. Regarding the NAHASDA federal qualifications related to the area census, the income limits, the way in which the housing block grant qualifies for the program, he encouraged the Department to look at new market tax credit qualifications which use the American Survey Census data. La`i`Opua qualified under the new market tax credit as a distressed community being at or below the 50% area median income (AMI), about \$70,000.

ITEM A-2 Kunani and Ipo Nihipali Re: Item G-3

K. Nihipali testified that they had a workshop the past weekend with 16 leaders from the various associations. They requested a workshop from the DOI to have a workshop to explain the amendments and how they affect the processes the beneficiaries are going through. The Department and the office have not yet responded to their request in a positive way.

ITEM A-3 Glenn Teves Re: Deer

G. Teves testified as a homesteader and a County Extension Agent on Moloka`i. The deer issue on Moloka`i has caused the largest papaya farmer in Ho`olehua to go out of business because he could not control the deer. The only crops that can be grown outside of a fenced area are bananas and taro. All other crops are grown fenced in. Farmers who have small fenced areas are doing monoculture farming or growing the same crops over and over, which can lead to diseases and pathogens in the soil. He stated that Colette Machado is interested in funding a project of fencing off more of the areas; however, the money needs to go through Hawaiian Homes and then go to the Moloka`i farmers.

DLNR did a land swap, 300 acres in Waianae for 1,000 acres on Moloka`i. Today, of the water that is supposed to go to Hawaiian homes, the homesteaders use 20% of the water, and 80% of the water is being used by the outsiders. G. Teves stated that he has a hard time with HHL putting a lien on the Moloka`i Irrigation System water when HHL has been ripping them off all this time. He said the need is to look at ways to gain control of the Moloka`i Irrigation System, the Department manages it, but the system will be controlled by the homesteaders.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

PLANNING OFFICE

ITEM G-1 Acceptance of the Beneficiary Consultation Report for the Kahikinui Moae Ku Wind Energy Project Proposed by Sempra Renewables, LLC, Kahikinui, Maui, TMK (2) 1-9-001:003 (portion)

RECOMMENDED MOTION/ACTION

Acting Manager Planning Office, Andrew Choy presented the following: motion that the Hawaiian Homes Commission accept the beneficiary consultation report for the Kahikinui Moae Ku Wind Energy Project proposed by Sempra Renewables Energy LLC, Kahikinui, Maui, TMK (2) 1-9-001:003 (portion)

MOTION

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

DISCUSSION

Chair Masagatani noted the recusal of Commissioner Wescoatt. There was no discussion.

ACTION

Motion carried unanimously.

ORDER OF BUSINESS

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-3 Bobby Alcan Re: Regional Planning and Development Issues

B. Alcan testified on about irrigation water and stated that a reservoir that was created for the homesteaders before statehood and completed after statehood. The management was then turned over to the state, and under the Water Authority Act the state was given managerial rights. It feels detrimental for an agency other than DHHL to manage it because they don't understand the law that gives homesteaders first right to the water.

B. Alcan testified on the general lease and stated that the Department must not lose sight of taking care of the native Hawaiians. DHHL's responsibility is to generate funds to help care for the Hawaiian Homesteads.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-1 Adoption of Resolution No. 299 Honoring Wallace A. Ishibashi for his Service to the Hawaiian Homes Commission

RECOMMENDED MOTION/ACTION

NAHASDA Manager Niniau Simmons presented the following:
Motion to adopt Hawaiian Homes Commission Resolution No. 299, honoring Wallace A. Ishibashi, Jr. for his service to the Hawaiian Homes Commission.

ITEM C-2 Adoption of Resolution No. 300 Honoring Jobie M.K. Masagatani for her Service to the Hawaiian Homes Commission

RECOMMENDED MOTION/ACTION

Deputy William Aila presented the following:
Motion to adopt Hawaiian Homes Commission Resolution No. 300, honoring Jobie M.K. Masagatani for her service to the Hawaiian Homes Commission.

MOTION

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

ACTION

Motion carried unanimously.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

PLANNING OFFICE

ITEM G-2 Acceptance of the Beneficiary Consultation Report for the Solar Energy Project Proposed by Innergex Renewables USA LLC at Kalaeloa, Oahu, TMK 9-1-013:040 and 9-1-013:038

RECOMMENDED MOTION/ACTION

Acting Planning Manager Andrew Choy presented the following:

Motion to accept the beneficiary consultation report as the official record of the information disseminated on the Kalaeloa Solar Energy Project and beneficiary questions and comments raised in response.

MOTION

Moved by Commissioner Namu‘o, seconded by Commissioner Kahikina, to approve the motion as stated in the submittal.

DISCUSSION

Chair Masagatani noted the recusal of Commissioner Wescoatt. There were no discussions.

ACTION

Motion carried unanimously.

LAND MANAGEMENT DIVISION

ITEM F-1 Annual Renewal of Right of Entry Permit(s), Moloka‘i Island

Note: This item was deferred from the Monday agenda.

RECOMMENDED MOTION/ACTION

Deputy William Aila stated that after checking with staff on O`ahu, the 30-acres represent land zoned general agriculture. It was determined not to be readily available for homesteading because there are flooding issues on the 30-acres.

MOTION (made on Monday)

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

DISCUSSION

There was no discussion.

ACTION

Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

D-1 HSD Status Reports

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

DISCUSSION

None.

MOTION/ACTION

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

EXECUTIVE SESSION IN 12:05 p.m.

The Commission anticipates convening in 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 these matters.

1. Update on Paradigm Construction, LLC v. Department of Hawaiian Home Lands, Civil No. 16-1-2035-11 DEO, Circuit Court of the First Circuit.

EXECUTIVE SESSION OUT 1:35 p.m.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next meeting will be held on May 20 & 21, 2019, in Waimea, Hawai‘i Island.

ADJOURNMENT 1:37 p.m.

Respectfully submitted:

Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Prepared by:

Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission at its regular monthly meeting on:

Jobie M.K. Masagatani, Chairman

DRAFT