

HAWAIIAN HOMES COMMISSION
Minutes of April 11 and 12, 2016
Meeting held at Kūlana ‘Ōiwi Conference Room

Pursuant to proper call, the 674th Regular Meeting of the Hawaiian Homes Commission was held at the Kūlana ‘Ōiwi Conference Room, 600 Maunaloa Highway, Kalama‘ula, Moloka‘i, Hawai‘i, beginning at 9:00 a.m.

PRESENT Jobie M. K. Masagatani, Chair
Doreen N. Canto, Commissioner, Maui
Kathleen P. Chin, Commissioner, Kaua‘i
Gene Ross K. Davis, Commissioner, Moloka‘i
Wallace A. Ishibashi, Commissioner, East Hawai‘i
David B. Ka‘apu, Commissioner, West Hawai‘i
Wren Wescoatt III, Commissioner, O‘ahu

EXCUSED Michael P. Kahikina, Commissioner, O‘ahu
William K. Richardson, Commissioner, O‘ahu

COUNSEL Matthew Dvonch, Deputy Attorney General

STAFF William J. Aila Jr., Deputy to the Chairman
Niniau Simmons, NAHASDA Manager, Office of the Chair
Paula Aila, Hale Manager, Office of the Chair
Hokulei Lindsey, Administrative Rules Officer, Office of the Chair
Leah Burrows-Nuuanu, Secretary to the Commission, Office of the Chair
Rodney Lau, Administrative Services Administrator
Dean Oshiro, Acting Homestead Services Division Manager
Norman Sakamoto, Development Officer, Land Development
P. Kahana Albinio, Acting Property Dev. Mgr., Income Property Branch
Nancy McPherson, Planner, Planning Division
John Peiper, Land Agent/Enforcement Officer, Office of the Chair
Paul Ah Yat, Enforcement Officer, Office of the Chair
Ku‘uwehi Hiraishi, Info. Specialist, Information and Community Relations
Halealoha Ayau, Acting Moloka‘i District Manager
Michelle Alfante, Moloka‘i District Office
Julie Kaupu, Moloka‘i District Office

ORDER OF BUSINESS

CALL TO ORDER/ROLL CALL

Chair Masagatani called the meeting to order at 9:00 a.m. Seven (7) members present at roll call. Commissioners Kahikina and Richardson were excused.

APPROVAL OF AGENDA

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

MOTION/ACTION

Moved by Commissioner Davis, seconded by Commissioner Canto, to convene in Executive Session pursuant to section 92-5 (a) (4), HRS. Motion carried unanimously.

EXECUTIVE SESSION IN

9:02 AM

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

- I. Update on Nelson Case- Richard Nelson, III et al., v HHC, Civil No. 07-1-1663
- II. For Information Only – United States of America, Secretary of the Air Force, General Lease No. 254, Ho‘olehua-Pala‘au, Island of Moloka‘i, TMK No. (2)5-2-06:063

EXECUTIVE SESSION OUT

11:26 AM

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

- ITEM D-2 Ratification of Loan Approvals (see exhibit)**
- ITEM D-3 Approval of Consent to Mortgage (see exhibit)**
- ITEM D-4 Approval of Streamline Refinance of Loans (see exhibit)**
- ITEM D-5 Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)**
- ITEM D-6 Approval of Refinance of Loans (see exhibit)**
- ITEM D-7 Approval of Homestead Application Transfers / Cancellations (see exhibit)**
- ITEM D-8 Ratification of Designations of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds (see exhibit)**
- ITEM D-9 Approval of Assignment of Leasehold Interest (see exhibit)**
- ITEM D-10 Approval of Amendment of Leasehold Interest (see exhibit)**
- ITEM D-11 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)**

RECOMMENDED MOTION/ACTION

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

MOTION/ACTION

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

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

- ITEM C-1 Accept Beneficiary Consultation Report for Department of Hawaiian Home Lands Proposed Amendments to Title 10, Hawaii Administrative Rules**

RECOMMENDED MOTION/ACTION

DHHL Administrative Rules Officer Hokulei Lindsey recommended the following:
Motion: that the Hawaiian Homes Commission accept the Beneficiary Consultation Report on Department of Hawaiian Home Lands Proposed Amendments to Title 10, Hawaii Administrative Rules as the formal record of the DHHL's consultation with beneficiaries in accordance with the Commission's Administrative Rules Development, Review, and Amendment Process.

MOTION/ACTION

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

ITEM C-2 Accept 2016 Annual Housing Plan for Title VIII, Native American Housing Assistance and Self Determination Act

RECOMMENDED MOTION/ACTION

NAHASDA Manager Niniau Simmons recommended the following:

Motion: to accept the 2016 Native Hawaiian Housing Block Grant Annual Housing Plan for submission to the U.S. Department of Housing and Urban Development.

DISCUSSION

N. Simmons stated the Annual Housing Plan is the same report filed each year in accordance with 24 CFR Part 1006, Title VIII of the Native American Housing and Self Determination Act (NAHASDA).

Notable changes this year include:

- Capital Improvement Projects are now listed as one activity, instead of by project. This allows more room in the budget section and shortens the housing plan itself.
- Water infrastructure improvements are a new activity this year. DHHL intends to leverage USDA monies to improve its water systems at Anahola, Kaua'i and Ho'olehua, Moloka'i.
- Language regarding the Nelson decision was included in the Housing Needs section.
- This year, DHHL included estimated NAHASDA funding needs for home rehabilitation, bringing the combined total need to \$10.8 billion.

MOTION/ACTION

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

LAND DEVELOPMENT DIVISION

ITEM E-1 New 5-year Agreement, Hawaii Community College Model Home Project

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto recommended the following:

Motion: to authorize the Department to enter into a new 5-year agreement with the University of Hawai'i ("UH") to construct houses on Hawaiian Home Lands using the Hawai'i Community College ("HCC") Model Home Program.

DISCUSSION

On October 27, 1998, the Hawaiian Homes Commission (HHC) authorized DHHL to enter into an agreement with the UH, for its HCC, to annually provide a vacant lot in the Hilo area for HCC's Model Home program. The first Agreement was signed on November 30, 1998, between DHHL and the UH. Since that initial Agreement, three additional 5-year Agreements have been entered into, and seventeen (17) homes have been built. A copy of the current 5-year Agreement is attached.

Chair Masagatani asked if the program can be expanded to include more than just one home. N. Sakamoto stated the number of students enrolled in the program determines the number of homes they can build. At this point the class size allows only one home to be built.

Commissioner Chin asked who pays for the cost of materials. N. Sakamoto replied that DHHL reimburses the model home program for the cost of materials. The lessee reimburses the Department for the cost of the home after financing is secured and the project is complete. The costs are like a self-help project where the students provide the sweat equity, and the electrical and plumbing services are contracted.

MOTION/ACTION

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

ITEM E-2 Approval of Lease Award – Rodney K. Kamalu

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto recommended the following:

Motion: to approve the award of Department of Hawaiian Home Lands Residence Lot Lease to the applicant listed in the submittal for 99 years, subject to the purchase of the existing improvements on the lot by way of a loan or cash.

MOTION/ACTION

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

LAND MANAGEMENT DIVISION

**ITEM F-1 Approval to Issue License as Easement to Hawaii Pacific University (HPU),
Waimanalo, Island of O‘ahu, TMK Nos. (1)4-1-014:005(por.) &:011(por.)**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Peter “Kahana” Albinio presented the following:

Motion: that the Hawaiian Homes Commission (HHC) authorize the issuance of a non-exclusive license as easement to HPU, covering the subject area as identified and described in the submittal for non-exclusive license as easement purposes. Approval and issuance of this non-exclusive license as easement shall be subject to the conditions in the submittal.

DISCUSSION

K. Albinio stated that this item was brought to the Commission in January 2016 as a For Information Only submittal. The Commission asked staff to do a beneficiary consultation in the community to make sure the community was on board with the project. LMD staff took the project to the community in March 2016, to date there have been no concerns or issues from the community. Sam Moku of HPU and Sean Hollis of Oceanic Institute were in attendance.

Chair Masagatani asked if there were consultation meetings with the beneficiary associations in the area. K. Albinio confirmed that S. Moku has a letter of support from the Waimānalo Homestead Association. HPU worked with the community over the last few months to develop a scholarship program for a Waimānalo student, and a future internship program for high school students.

Chair Masagatani indicated that she would reserve some time on the agenda for an update on outreach efforts from the HPU/Oceanic Institute at the next HHC Waimānalo community meeting.

MOTION/ACTION

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

ITEM F-2 Approval to Issue Addendum No. 3, License No. 204, U.S. Department of Transportation, Federal Aviation Administration, Waiakea, Island of Hawai'i, TMK No. (3)2-1-013:001(por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Peter “Kahana” Albinio presented the following:

Motion: that the Hawaiian Homes Commission (HHC) authorize the issuance of Addendum No. 3 to License No. 204 for continued use of roadway access to FAA, covering subject area as identified and described in the submittal attachment. Approval and issuance of this Addendum No. 3 shall be subject to the conditions in the submittal.

Chair Masagatani asked what service the facility is used for. K. Albinio stated the facility is used for airport communications.

MOTION/ACTION

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

PLANNING OFFICE

ITEM G-1 Declare a Finding of No Significant Impact (FONSI) for a Final Environmental Assessment (FEA), Improvements to the Ho‘olehua Water System PWS No. 230, Portions of Parcels in TMK (2)5-2-005, (2)5-2-006, (2)5-2-007, (2)5-2-008, (2)5-2-009, (2)5-2-010, (2)5-2-012, (2)5-2-013, (2)5-2-021, (2)5-2-023, (2)5-2-024, (2)5-2-025, (2)5-2-032, and (2)5-2-033

RECOMMENDED MOTION/ACTION

Grant Specialist Gigi Cairel and Acting Moloka‘i District Manager Halealoha Ayau presented the following:

Motion: that the Hawaiian Homes Commission (HHC) declare a Finding of No Significant Impact (FONSI) based on the information provided in the Final Environmental Assessment (FEA) for the proposed improvements to the Ho‘olehua Water System PWS No.230.

DISCUSSION

G. Cairel provided an overview of the project that started in 2011. It is a major project for the Department and is estimated to cost \$30 million. DHHL is applying to the US Department of Agriculture (USDA) for grant funds to fund the water system improvements. Today, the Department is asking for approval of the FONSI to move forward.

Chair Masagatani asked for an update on the schedule the Department is facing to secure federal funds for the improvements. G. Cairel stated the USDA grant DHHL is applying to is for existing systems like the Moloka‘i Water System that need major improvements and upgrades. USDA gave DHHL a deadline of June 30, 2016, to submit the grant application. The Department should have all of the necessary pieces to submit the application by May.

Commissioner Chin asked if the project would require an Environmental Impact Statement (EIS). G. Cairel stated that since the Department is planning to use US Department of Housing and Urban Development (HUD) funding it requires a HUD Environmental Review Record (ERR), and USDA has an Environmental Review (ER) requirement as well. All three studies are being

done simultaneously. The FEA is the most complex and has more requirements than the other two. Once this FONSI is approved, the other studies should be finished soon after.

Commissioner Ka'apu asked if there would be buffer zone to protect the cultural sites that were identified. H. Ayau stated the upgrades would replace the lines in the same easement corridors so there should be no disturbances outside of the current corridor.

Commissioner Davis thanked the DHHL team for their persistence and dedication. The project has been in the planning stages for a long time, and Molokai residents wondered how DHHL would find the funding. Residents are anxious to get the upgrades in place.

Commissioner Chin asked if the upgrades include increasing capacity to allow for additional homes. H. Ayau stated the improvements will update the areas of the system that are 90-years old. The improvements will increase efficiency but may not increase capacity. DHHL's current water use permits are pending approval.

Commissioner Wescoatt asked what percent of the power is coming from the new photo voltaic (PV) system. G. Cairel stated that when the sun is shining, they plan to run the PV system to power the pumps to fill up the tanks.

MOTION/ACTION

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

ITEM G-2 Declare a Finding of No Significant Impact (FONSI) for a Final Environmental Assessment (FEA), St. Rita Catholic Church Master Plan, Nānākuli, O'ahu, TMK (1) 8-9-005:001, (1) 8-9-007:002(por.), and (1) 8-9-007:004(por.)

RECOMMENDED MOTION/ACTION

Planner Julie Cachola presented the following:

Motion: that the Hawaiian Homes Commission (HHC) declare a Finding of No Significant Impact (FONSI) based on the information provided in the Final Environmental Assessment (FEA) for the St. Rita Catholic Church Master Plan.

The St. Rita Catholic Church plans to demolish and remove all the existing facilities (Church, rectory, Quonset hut, four portables, and the restrooms). The site will be completely renovated with a new meeting hall to accommodate 300 people, a new church to increase the present occupancy load from 180 to 400, and a single-story office building of approximately 2,200 square feet. Figure 2 provides an illustrative rendering of the completed renovations. Figure 3 provides the detailed site plan.

- The NEW CHURCH will be 5,650 square feet in size and will accommodate 400 people. The façade of the existing church and bell tower will be designed into the construction of the new church.
- The NEW COMMUNITY/MEETING HALL will be 6,400 square feet in size and will include a large meeting area, classrooms, warm-up kitchen, storage, and men's and women's restrooms.
- The NEW OFFICE BUILDING will be 1,000 square feet and will include: Three (3) offices, a reception area waiting room, and men's and women's restrooms.

Based on the FEA analysis, including agency recommendations that have been incorporated into the FEA, DHHL staff concludes that the development, construction, and operation of St. Rita Church's facility Master Plan will not have a significant impact on the project area or surrounding

vicinity. Should the HHC disagree with staff findings, an Environmental Impact Statement Preparation Notice (EISPN) may be issued instead of a FONSI, per HAR §11-200-11.2.

Chair Masagatani deferred action on the Item to the Tuesday agenda.

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA- Requests to Address the Commission

ITEM J-1 Cheyenne Hiapo Perry, Mauna Kea Watershed Alliance

C. Perry represented the Mauna Kea Watershed Alliance (Alliance) in its request for a license to manage the watershed. The license is needed to access \$250,000 in federal funding which has a due date in June. He introduced Lori Buchanan who has been in the land management field who provided testimony in support.

L. Buchanan reiterated the urgency to do whatever it takes to assist the Alliance with accessing funding to manage the watershed for everyone. She urged the Commission to make the right decision and work with the Alliance to save the watershed.

Chair Masagatani explained that DHHL was a member of the Alliance previously. The complication now is that the Alliance is not a 501 (c) 3 non-profit and the parent fiscal agent is a non-native, non-beneficiary organization. Beneficiaries have become more engaged and vocal about the Department issuing long-term land dispositions to non-beneficiaries. The sensitivity of things happening in and around Humu‘ula makes it even more complicated. DHHL is on Hawai‘i Island next month and wanted to give the community a chance to share their mana‘o about all things related to the Mauna before making any decisions.

C. Perry stated the watershed project is a joint effort using US Fish and Wildlife and State of Hawai‘i CIP funds. The federal funds require a 10-year lease, and the CIP funds require the money to be encumbered by June 30th. The project is important and would benefit the Mauna for years to come. He offered a short slide show presentation outlining the project and its goals.

Commissioner Ishibashi asked how many cattle have been removed by the Alliance to date. C. Perry stated no cattle were removed. Before the fence went up, they tried to push all animals out of the project area. Any animals left inside the fence will need to be eradicated, but there will be an option for beneficiaries to recover the animals they trap.

Chair Masagatani asked if Deputy Aila could initiate a call with the parties to see if the grant could be issued to DHHL to fund the work. Then, a land disposition may not be necessary.

ITEM J-2 John McBride – Mauna Kea

J. McBride commented that the previous project sounded wonderful and is something the Commission should approve. However, the Keaukaha Community Association (KCA) applied to do something similar, and they are an organization made up of and operated by beneficiaries. The Department just held a beneficiary consultation in Hilo, and it seemed like everyone agreed that no licenses should go to non-beneficiary organizations. He wished KCA would receive the same support from the Commission like what the Alliance received. He stated the project sounded wonderful but wondered why the Alliance doesn’t work with KCA.

MOTION/ACTION

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

EXECUTIVE SESSION IN

1:10 PM

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

1. Notice of Proposed Rule Making for Procedures for Reestablishing a Government-to-Government Relationship with the Native Hawaiian Community

EXECUTIVE SESSION OUT

2:08 PM

ITEM J-3 Noelani Yamashita & Kauila Hanchett – Ka Honua Momona (KHM)

N. Yamashita and K. Hanchett thanked the Commission for coming to Moloka'i. They provided Commissioners with a project update. KHM's relationship with DHHL started in 2005 with a limited Right of Entry (ROE). They met their project deliverables and were granted a 35-year license for Ali'i Fishpond, Kaloko LE Fishpond, and a 1.46-acre lot for a mala and hale. The 35-year license allowed them to leverage funds to be the first smart microgrid on Moloka'i. Their focus is cultural and environmental stewardship and education.

K. Hanchett added KHM's five core principals are: 1) Hoewe (Cultural Rootedness), 2) Kahu Hoilina (Environmental Stewardship), 3) Kukai ka Ha (Intergenerational Exchange), 4) Ka Imi'ike (Lifelong Learning), and 5) Mahuaola (Health and Wellbeing).

They offered a slide show of the various sites and activities from the current year and answered questions about the general locations of the sites.

ITEM J-4 Stephanie K. Lauifi – 2016 Legislation on Blood Quantum

S. Lauifi thanked the Commission for supporting the Moloka'i Homestead Associations in their effort to get the blood quantum bill passed at the Legislature this past session. Although the bill did not pass this time around, the Moloka'i contingent is committed to keep trying. She asked the Commission to help spread the word to the homestead associations across the state as it does its annual meetings on every island.

ITEM J-5 Skylla Villanueva – Lease #3442, Lot 112A, Ho'olehua, Moloka'i.

S. Villanueva and her sister Tania Joao came before the Commission to ask for an update on her lease situation. They came before the Commission a year ago and after a long and arduous process, thought an agreement had been reached with DHHL. They are back before the Commission a year later because nothing has materialized. Thinking that an agreement had been reached, they moved forward with gathering 192 Norfolk pine trees and 342 slips of pine, 3000 feet of poly hose, and 800 feet of PVC pipe only to learn that another survey was done which changed the boundary by 20 ft. Everything they put in is now outside of the boundary.

Commissioner Ka'apu asked if the parties are physically in the house. T. Joao stated they are. Chair Masagatani asked staff to report back to the Commission if the timeline changes. She thanked T. Joao and S. Villanueva for testifying before the Commission.

WORKSHOPS

ITEM B-1 US Department of Agriculture Water & Environmental Program

RECOMMENDED MOTION/ACTION

None. For information only.

Grants Specialist Gigi Cairel provided an oral presented on the USDA Water & Environmental Program.

G. Cairel explained that through Rural Utilities Service Water and Environmental Programs (WEP), rural communities obtain the technical assistance and financing necessary to develop drinking water and waste disposal systems. Safe drinking water and sanitary waste disposal systems are vital not only to public health, but also to the economic vitality of rural America. Rural Development is a leader in helping rural America improve the quality of life and increase the economic opportunities for rural people.

WEP provides funding for the construction of water and waste-water facilities in rural communities and is the only federal program exclusively focused on rural water and waste-water infrastructure needs of rural communities with populations of 10,000 or less. WEP also provides funding to organizations that provide technical assistance and training to rural communities regarding their water and waste-water activities. WEP is administered through a national office staff in Washington, D.C. and a network of field staff in each state.

DHHL was awarded a \$30,000 planning grant for the Moloka‘i Water System. Highest priority is submitting three construction applications (Moloka‘i, Anahola, and Laiopua Village 4) by June 30th. Between the three projects, the Department will spend the \$19 million of USDA funds set aside for DHHL.

Chair Masagatani stated if the project costs \$25 million and the set-aside has only \$19 million, the balance of funding needed could take up a significant portion of DHHL’s development budget with no new homesteads produced except at Laiopua Village 4. G. Cairel stated that NAHASDA funds could be used to meet the required 55% contribution. The other alternative is USDA can give the Department a low interest loan.

Commissioner Ka’apu asked if DHHL can become a separate water district. G. Cairel stated DHHL would need to implement an enterprise accounting system so that staffing time and operating expenses required to run the water systems are separated from the rest of DHHL’s operating expenses. DHHL will be undertaking a cost of water study which will impact the water rates. There was a study completed ten years ago, and one of the recommendations was to create a utility authority whether housed within the Department or at an arm’s length. To access funding opportunities, the Department needs to separate the operational costs associated with the water systems from the other departmental functions and budgets. That is one of USDA’s requirements, and they are watching the Department closely to make sure that DHHL implements enterprise accounting. When the USDA folks came from Washington D.C., they were surprised that all the money is combined into one big “pot”.

Commissioner Ka’apu asked what the benefits are of DHHL having its own water district. G. Cairel stated the Department would have more opportunities to secure federal funding. It also helps with building the technical expertise in the Department. A lot of the technical expertise is currently contracted out. DHHL is still responsible for the oversight and monitoring. A licensed Level II Certified Water Operator should be taking care of the Department’s water issues.

Commissioner Wescoatt asked if the Department expects to get more money after it uses the \$19 million. Chair Masagatani stated that the federal set aside was deleted, and no one knows how it happened.

Commissioner Ishibashi asked how much the Moloka'i Water System costs to operate. Halealoha Ayau answered that it costs about \$1 million to operate annually. The system is old and in need of repair.

ITEM H-1 Budget Variance Report

Note: This item was deferred to the May HCC meeting.

REGULAR AGENDA

PLANNING OFFICE

ITEM G-4 Moloka'i Regional Update to the Hawaiian Homes Commission

RECOMMENDED MOTION/ACTION

Planner Nancy McPherson presented updates on the existing Moloka'i Plans and the status of their implementation.

Moloka'i Island Plan Implementation Status

Since its adoption in June 2005, there has been one land use amendment to the Moloka'i Island Plan. At the request of beneficiaries, and after beneficiary consultation was conducted, a land use amendment re-designating 7,415 acres of General Agriculture and 62 acres of Community Use lands to Special District was approved by the Hawaiian Homes Commission on December 14, 2010.

In addition, a land exchange with the State of Hawaii was executed in 2006. It provided for an exchange of 6 acres of Community Use land adjacent to the Ho'olehua Fire Station and the Lanikeha Ho'olehua Community Center for 89 acres of land in Ma 'ili, O'ahu, to be developed for residential homesteads. The former DHHL parcels in Community Use in Ho'olehua are now being planned for use by the Molokai Middle School. The separation of middle and high school students was identified as an issue and potential project in the Molokai Regional Plan.

Molokai Regional Plan

The Molokai Regional Plan was first adopted by the HHC in December of 2007 and subsequently updated in April of 2010. Outreach to and engagement with Moloka'i beneficiaries throughout the planning process identified the following priority projects:

- (1) Alternative Energy Initiative
- (2) Conduct Beneficiary Consultation on Large Scale Renewable Energy Development
- (3) Water Pressure Testing in Kalama'ula
- (4) Modify Septic Tank at Kiowea Park
- (5) Support Molokai Sustainment Farming Project, Ho'olehua Homestead Association

Miscellaneous Joint Projects

- (1) Kanakaloloa Cemetery Improvements
- (2) Kapa'akea Flood Mitigation Efforts
- (3) Kapuaiwa Coconut Grove Cleanup and Stabilization
- (4) 'Ohi'apilo Wetland and Bird Sanctuary Mitigation
- (5) Kalaupapa General Management Plan

GENERAL AGENDA- Requests to Address the Commission

ITEM J-6 Yama Kaholoaa, Vice-President Hawaiian Homes Cattle Association (HHCA)

Y. Kaholoaa clarified that the Hawaiian Homes Cattle Association does not have a partnership with Ka Honua Momona (KHM), as was mentioned by N. Yamashita. HHCA has the license for the upper Kalama‘ula parcel and KHM was granted access without discussing it with their board first. The HHCA board meets every month and has invited KHM to join them, but no one came. He mentioned a scheduling conflict where KHM wanted to access the parcel at the same time they had a large cattle round-up. They asked KHM to reschedule but in the end, KHM was granted access by the Department.

RECESS

4:45 PM

HAWAIIAN HOMES COMMISSION
Minutes of April 11 and 12, 2016
Meeting held at Kūlana ‘Ōiwi Conference Room, Kalama‘ula, Moloka‘i

PRESENT Jobie M. K. Masagatani, Chair
Doreen N. Canto, Commissioner, Maui
Kathleen P. Chin, Commissioner, Kaua‘i
Gene Ross K. Davis, Commissioner, Moloka‘i
Wallace A. Ishibashi, Commissioner, East Hawai‘i
David B. Ka‘apu, Commissioner, West Hawai‘i
Wren Wescoatt III, Commissioner, O‘ahu

EXCUSED Michael P. Kahikina, Commissioner, O‘ahu
William K. Richardson, Commissioner, O‘ahu

COUNSEL Matthew Dvonch, Deputy Attorney General

STAFF William J. Aila Jr., Deputy to the Chairman
Niniau Simmons, NAHASDA Manager, Office of the Chair
Paula Aila, Hale Manager, Office of the Chair
Hokulei Lindsey, Administrative Rules Officer, Office of the Chair
Leah Burrows-Nuuanu, Secretary to the Commission, Office of the Chair
Rodney Lau, Administrative Services Administrator
Dean Oshiro, Acting Homestead Services Division Manager
Norman Sakamoto, Development Officer, Land Development
P. Kahana Albinio, Acting Property Dev. Mgr., Income Property Branch
Nancy McPherson, Planner, Planning Division
John Peiper, Land Agent/Enforcement Officer, Office of the Chair
Paul Ah Yat, Enforcement Officer, Office of the Chair
Ku‘uwehi Hiraishi, Info. Specialist, Information and Community Relations
Halealoha Ayau, Acting Moloka‘i District Manager
Michelle Alfante, Moloka‘i District Office
Julie Kaupu, Moloka‘i District Office

ORDER OF BUSINESS

CALL TO ORDER/ROLL CALL

Chair Masagatani called the meeting to order at 9:03 a.m. Commissioner Kahikina and Richardson were excused. Seven (7) members were present at roll call.

Chair Masagatani noted item C-4 is deferred. Public Testimony on Agendized Items will be moved to be the first item addressed.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

Item A-1 John K. McBride, Keaukaha Homestead Association

J. McBride asked for clarification about the ‘Āina Mauna Legacy Program regarding changes in management. He asked if the people who have permits on the Mauna are paying fair market value for their permits. He mentioned trying to communicate with the Department about management changes but hasn’t gotten any response. He felt like the Department cut off communication with him and his association.

Chair Masagatani offered to convene a meeting in Hilo to touch bases with the associations about what is happening with the 'Āina Mauna Legacy Program. She asked Deputy Aila to schedule a meeting in the next month.

Commissioner Ishibashi agreed that a meeting needs to be held to get everyone at the table talking at the same time. Beneficiaries should get return calls when they have concerns. There are a lot of things going on with Mauna Kea and the best way to reach all interested parties is to hold a meeting in Hilo.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-4 Approval of Subdivision, Transfer of a Portion of Lease and Amendment to Lease No. 9504, Lot A, Waimea, Hawai'i – Flora Beamer Solomon (Lot A-3), Huali Solomon Covington (Lot A-1), Alice Leiomalama Solomon (Lot A-2).

Note: This item was deferred.

ITEM G-2 Declare a Finding of No Significant Impact (FONSI) for a Final Environmental Assessment (FEA), St. Rita Catholic Church Master Plan, Nānākuli, O'ahu, TMK (1) 8-9-005:001, (1) 8-9-007:002(por.), and (1) 8-9-007:004(por.)

RECOMMENDED MOTION/ACTION

Planner Julie Cachola presented the following:

Motion: that the Hawaiian Homes Commission (HHC) declare a Finding of No Significant Impact (FONSI) based on the information provided in the Final Environmental Assessment (FEA) for the St. Rita Catholic Church Master Plan.

MOTION/ACTION

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

ITEM G-5 Extend Existing Water Rates for the DHHL Moloka'i and Anahola Water Systems

RECOMMENDED MOTION/ACTION

Deputy to the Chairman William Aila Jr. presented the following:

Motion: that the Hawaiian Homes Commission (HHC) extends existing water rates (including water delivery, system, and meter fees) for all consumers on the Department of Hawaiian Home Lands' (DHHL) Moloka'i and Anahola Water Systems until June 30, 2018, pending preparation of a water rates assessment to be presented to the HHC for action.

MOTION

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

DISCUSSION

Joy Gannon of Rural Community Assistance Corporation (RCAC), Water Consultant Dr. Jonathan Scheuer, and Acting Moloka'i District Manager Halealoha Ayau provided an update on the cost-of-service study and water rate assessment study. The recommended motion is meant to keep the rates at the same level until the studies are complete.

Chair Masagatani asked if the intent is to have one rate structure for all systems. J. Gannon stated that would be one of the policy decisions for the Commission after the cost-of-service study is complete. It could be one utility where everyone pays the same rates, like what the counties have in place.

Commissioner Ishibashi asked if the Pu‘ukapu water system will remain non-potable and if there will be improvements to the water pressure in the mauka areas. Chair Masagatani answered the Pu‘ukapu Water System will remain non-potable and there are no current plans for improvements to the Pu‘ukapu Water System.

Commissioner Davis asked that the Commission be provided with current water rates for the Moloka‘i Water System. H. Ayau stated he will provide a printout to the Commission.

Chair Masagatani asked when the study will be completed. Staff responded that the cost-of-service study will take four months.

ACTION

Motion carried unanimously.

ITEMS FOR INFORMATION

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-3 Environmental Assessment for HUD-assisted Projects under 24 CFR part 58, Kalama‘ula Residential Lots, various parcels within tax map plats (2) 5-2-032 and 5-2-033

RECOMMENDED MOTION/ACTION

None; for information only. This submittal regarding an anticipated Finding of No Significant Impact (FONSI) based on the information provided in the Environmental Assessment under 24 CFR Part 58 was provided to the Commission for the proposed DHHL Kalama‘ula Residential Lots project.

DISCUSSION

NAHASDA Manager Niniau Simmons introduced PBR Consultant Katie Tollerson. The Kalama‘ula subdivision is a 132-acre area divided into mainly one-acre lots, 72 of which are vacant. The existing vegetation throughout most of the property consists of open, low, dry grassland with scattered koa-haole shrubs and kiawe trees. Existing development consists of single-family homes that have been developed on scattered lots throughout the subdivision. An old, unused school building is located on one of the lots (Lot 135). The subdivision and infrastructure development were subject to state environmental review (Chapter 343, HRS) in 1996. The Kalama‘ula Residential Lots, Unit 1 subdivision plan was filed in 2001 at the Bureau of Conveyances as File Plan No. 2298.

The proposed Project is to use Native American Housing Assistance and Self Determination Act (NAHASDA) funds to provide infill and rehabilitation housing opportunities within this established neighborhood. This would involve encouraging existing lessees with vacant lots to build utilizing financing for package home loans or self-help housing (or other programs), rehabilitating older homes, and improving and awarding any available vacant lots in DHHL’s inventory.

The purpose of this project is to offer opportunities to native Hawaiian beneficiaries to develop lands or rehabilitate home structures for homesteading. It is consistent with the Hawaiian Homes Commission Act, 1920, as amended, which provides for the development and settlement of native Hawaiians on lands owned by the DHHL (State of Hawai'i, (Act of July 9, 1921, c 42, 42 Stat 108)). This project represents DHHL's ongoing efforts to expedite the development and distribution of its lands to qualified beneficiaries.

Commissioner Wescoatt asked if the requirements for HUD compliance also complies with state requirements. K. Tollerson stated that there is an Environmental Impact Statement (EIS) on file for Kalama'ula already, so staff felt it was sufficient.

Commissioner Davis thanked N. Simmons for working on the kupuna home repair project.

HOMESTEAD SERVICES DIVISION

ITEM D-1 HSD Status Reports

Exhibits:

A - Homestead Lease and Application Totals and Monthly Activity Reports

B - Delinquency Report

C – DHHL Guarantees for USDA-RD Mortgage Loans

PLANNING OFFICE

ITEM G-3 For Information Only – Due Diligence for Non-Homestead Land Use Requests from Nonprofit Organizations

RECOMMENDED MOTION/ACTION

None. For information only.

Grants Specialist Gigi Cairel provided an oral presentation on the submittal.

DISCUSSION

This submittal provides information on the Department of Hawaiian Home Lands' (DHHL's) due diligence process for non-homestead land use requests from non-profit organizations.

G. Cairel stated DHHL has issued land dispositions for over 10,000 acres to over 70 non-profit organizations statewide. The types of non-profits that are involved vary. They include homestead community-based non-profits; community development corporations partnering with a homestead; and private, non-profit organizations such as charter schools, churches, Alu Like, and Kamehameha Schools. Non-profits range from small, volunteer run organization to large complex organizations with paid employees. Some of the organizations are only registered with the state as a non-profit while others are large, private, charitable non-profit corporations with federal IRS 501 C3 tax exempt status. The types of activities and projects undertaken also vary from providing education and health care services to constructing a community center.

In July 2015, department staff was asked to review internal procedures for processing land use requests from non-profit organizations seeking a nominal rent or a rent that was substantially below market. In exchange for reduced rent on Hawaiian home lands, such non-profits proposed to offer benefits such as programs and services to DHHL's beneficiaries. Planning Office and Land Management Division staff met jointly to make improvements to their due diligence process. The basic premise of the due diligence process is based on three elements summarized below.

1) Organizational Development

- Who is the organization - vision, mission, purpose?

- Who is on the board and who do you serve?
 - Relationship between the organization and HHCA beneficiaries.
 - Organizational qualifications and experience to plan and implement the proposed project/activity or similar.
- 2) Program Planning
- What does the community need that your proposed project will address?
 - What are the benefits to HHCA beneficiaries?
 - Is your proposed project consistent with DHHL Island Plans and Regional Plans, and other governmental plans?
 - Business plan to include feasibility, market study, startup/initial costs, operating budget, reserve fund, and project income/revenue (user fees, grants, government subsidies, etc.)
- 3) Social Capital
- Demonstration of a broad base of HHCA beneficiary support, community at-large support, public and private sectors, funders, etc.

This due diligence process is triggered when DHHL receives a completed Land Use Request form. Generally, a letter (or email) is sent to the requester notifying them of the Criteria and requesting them to submit documentation addressing the Criteria.

G. Cairol stated staff began talking with community groups about the process and information has been added to the Department's website.

Chair Masagatani asked if there is way to focus on projects that a community has developed through a planning process and has identified as a priority. Sometimes a community or organization may have an idea about a certain parcel but may not have the capacity currently or may have unrealistic expectations. G. Cairol stated the proposed project business plan lists criteria for whether the project is consistent with relevant Island and Regional Plans. Staff anticipates having conversations with the community groups before a Land Use Request is submitted. The key is understanding who is the community; what is their vision; and what kind of projects are they identifying as a priority.

Chair Masagatani asked if the Department should look at another trigger document. The Land Use Request form may set the Department up for beneficiary expectations that cannot be met.

Commissioner Wescoatt stated it's the difference between the landowner driving the projects and the entrepreneurs driving the projects. DHHL could do an RFP based on the priorities from the Island Plan and ask for interested organizations to submit proposals to accomplish those priority projects.

G. Cairol stated there are two different ways the Department receives requests to use land. One is the Land Use Request form, and the other is a solicited RFP where the Department defines the project. Staff is looking for better ways to manage the requests for land that the Department receives, and what evaluation process should be utilized.

Commissioner Richardson stated that if funding and personnel are allocated as they should be, he prefers shoring up the Planning Office to do participatory planning rather than reactionary planning.

Commissioner Chin suggested a different form for "Beneficiary Ideas."

G. Cairol stated there are many non-profit organizations that are not beneficiary organizations but serve DHHL beneficiaries. Moving forward, the Department will provide the Commission with a list of land use requests that were received and where it is in the due diligence process.

Commissioner Chin asked if the Department provides resources to non-profits who need help with business plans. G. Cairol stated there are no capacity building and technical resources within the Department right now.

Commissioner Ishibashi stated Keaukaha has been waiting for a long time to get an answer to their land use request. The Department must be fair in dealing with all land use requests.

Chair Masagatani stated once the process is clear and applied consistently, trust with the communities can build.

RECESS

10:35 AM

RECONVENE

10:45 AM

ITEM G-6 For Information Only - Update on Moloka'i Water Projects and Issues

RECOMMENDED MOTION/ACTION

None; For Information Only

DISCUSSION

Deputy Director William Aila Jr. introduced water consultant Dr. Jonathan Scheuer who offered an oral presentation of the submittal.

J. Scheuer stated many water issues and efforts of significance to beneficiaries and the Department of Hawaiian Home Lands (Department) are ongoing on Moloka'i. The submittal provides background information on:

- (1) planned water needs associated with Department tracts on Moloka'i;
- (2) proposed Ho'olehua Water System improvements;
- (3) preparation of a water rates assessment concerning Department water systems, including the Ho'olehua water system;
- (4) the Moloka'i Irrigation System (MIS); and
- (5) interests in Kalapa's aquifer resource disputes.

Water needs were determined based on the Department's Moloka'i Island Plan (2005) and Moloka'i Regional Plan.

Chair Masagatani asked if water from the MIS could be transported to Kalama'ula. She added that Kalama'ula beneficiaries are currently using potable water for agriculture. J. Scheuer stated it can be done physically, but the system is water-short as it is.

Chair Masagatani stated DHHL beneficiaries are supposed to have a 2/3rds priority. J. Scheuer stated the system was originally built for DHHL beneficiaries but later was used by the pineapple company and eventually others. His understanding is that when there are shortages, non-homestead users are cut off first.

Commissioner Wescoatt asked if there are any current efforts to improve or upgrade the MIS. H. Ayau stated the Department of Agriculture has done incremental upgrades to different parts of the system based on need.

Commissioner Davis stated the intent was to use surface water in a dike system to provide water to homesteaders. What exists is phase one of a three phase project.

Chair Masagatani stated there are some unused water wells in Kalama‘ula and it might be a good idea to consider them as an option. J. Scheuer commented they are just getting the studies and reports in and can start looking at all options. Chair Masagatani asked if it would be appropriate to add the water well uses into the water management area permit. Deputy AG Dvorch stated the water use permit application is very old and will need to be revised for current and future needs.

J. Scheuer stated the preferred strategy is to assert DHHL’s unambiguous rights to pump what is needed right now. Chair Masagatani stated that for the overall health of the aquifer it would help to identify the best site for another well, regardless of who owns the land and who runs it, a list of the preferred site, next best site, and so on. Then, advocate for it collectively just to preserve the health of the aquifer.

MOTION/ACTION

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

EXECUTIVE SESSION IN 11:28 AM

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

EXECUTIVE SESSION OUT 12:14 PM

ANNOUNCEMENTS

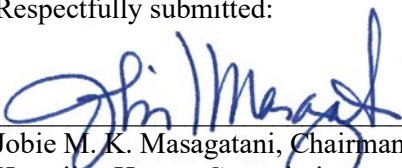
Chair Masagatani thanked everyone for coming out to the meeting. The next meeting is being held on May 23 & 24, 2016, in Kona. The next community meeting will be held on May 23, 2016, in Kona, Hawaii.

ADJOURNMENT 12:15PM

Moved by Commissioner Davis, seconded by Commissioner Richardson, to adjourn the meeting. Motion carried unanimously.

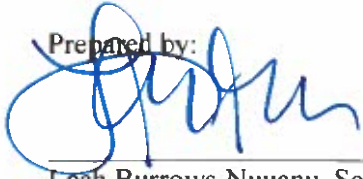
These minutes were reviewed and meet the requirements for minutes as outlined in HRS §92-9(a).

Respectfully submitted:



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

Prepared by:



Leah Burrows-Nuuanu, Secretary
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission
At Its Regular Monthly Meeting On
January 17, 2023



Ikaika Anderson, Chairman Designate
Hawaiian Homes Commission