

**MINUTES FOR THE
MEETING OF THE
BOARD OF LAND OF NATURAL RESOURCES**

DATE: FRIDAY, FEBRUARY 12, 2016
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson Suzanne D. Case called the meeting of the Board of Land and Natural Resources to order at 9:00 a.m. The following were in attendance:

MEMBERS

Suzanne D. Case
Stanley Roehrig
Ulalia Woodside

James Gomes
Christopher Yuen
Keone Downing

STAFF

Russell Tsuji-LAND
Guy Chang/DOCARE
David Sisco-DOFAW
Kevin Moore-LAND
Carty Chang-ENG

Sam Lemmo-OCCL
Sheri Mann-DOFAW
Afsheen Siddiqi-DOFAW
Curt Cottell-PARKS

OTHERS

Colin Lau/Deputy AG
Mark Fridovich/M-1
David Bettencourt/ M-11
Duane Kurisu/D-9
Peter Young/K-2
Peter Savio/D-3
Steven Lim/D-3
Michael Lam/D-3
Tim Irons/D-3
Randy Kurohara/D-3
Dan T./D-3
Brutus Albrat/D-10
Jojo Tanimoto/K-1
Francine Frost/ D-7

Linda Chow/Deputy AG
Abby Lareau/M-3-M-11
Calvert Chun/M-2
Gordon Furitani/D-9
Wayne Congawa/K-2
Danton Wong/D-3
Arthur Lessing/D-3
Ed Brushour/D-3
Don Inouye/D-3
Mr. Applegate/D-3
Patricia Inouye-Hidenfield/D-3
Cal Miyahara/D-10
Bill Spencer/ K-1
James K. Manaku/C-2

Member Tommy Oi was excused and Member Ulalia Woodside was running late.

ITEM A-1 Approval of July 10, 2015 Minutes

Member Roehrig asked to add "on unrelated matters" on page 6 Item L-5.



ITEM A-3 Approval of December 11, 2015 Minutes

Member Roehrig commented that he would transcripts expedited for items that go before the circuit court.

ITEM A-2 Approval of November 13, 2015 Minutes

No comments, no changes.

Member Gomes made a motion to approve Item A-1 as amended and Items A-2 and A-3 as submitted.

Unanimously approved as submitted (Gomes, Roehrig)

Chair case announced that the following items were withdrawn.

ITEM D-4 Consent to an After-the-Fact 10-Year Term Extension of General Lease No. S-3602, Mar-Les Corporation, Lessee, Pursuant to Act 207, Session Laws of Hawai'i 2011, Kanoelehua Industrial Lots, Lot 40, Waiākea, South Hilo Hawai'i, Tax Map Key: (3) 2-2-049:014.

WITHDRAWN

ITEM J-1 Administrative Enforcement Action Against Mr. Joe R. Waldvogel for Engaging in Illegal Commercial Operation on Hanalei Bay Ocean Waters and Lands Adjacent Thereto.

WITHDRAWN

ITEM J-2 Administrative Enforcement Action Against Mr. Clayton C. White for Engaging in Illegal Commercial Operation on Hanalei Bay Ocean Waters and Lands Adjacent Thereto.

WITHDRAWN

ITEM M-6 Issuance of a Revocable Permit for Maritime Purposes to The State of Hawai'i, Department of Transportation, Harbors Division, Kapālama Military Reservation, Honolulu International Airport, Tax Map Key: (1) 1-2-15: 002, 116, 120, 121 (Por) and 73 (Por).

WITHDRAWN

ITEM M-1 Renewal Issuance of Right of Entry Permit to Avalon Health Care, Incorporated on Lands Encumbered by Executive Order 3504, Kaneohe, Hawai'i State Hospital (HSH), O'ahu, Tax Map Key: Div. 1 Zone, 4, Sect 5, Plat 023, Parcel 002.

Mark Fridovich Administrator of Adult Mental Health with the Department of Health-DOH appeared on behalf of the DOH. He explained that the purpose of this is for the contractor to do archeological drenching and other geo-tech studies.

Unanimously approved as submitted (Roehrig, Gomes)

- ITEM M-3 Amendment No. 25 to Concession Lease No. DOT-A-92-0018 for The Purpose of Adding Two (2) Storage Spaces, Host International, Inc., Restaurant and Lounge Concession, Honolulu International Airport, Tax Map Key: (1) 1-1-03: 1 (Portion).**
- ITEM M-4 Issuance of a Revocable Permit to Stage Construction Equipment for The Honolulu Rail Transit Project 2979, 2969, 2959, 2949, and 2939, Ualena Street, Honolulu International Airport, Tax Map Key: (1) 1-1-04:18, 17, 15, and 14.**
- ITEM M-5 Issuance of a Revocable Permit for Aircraft Parking, R & J Aviators, LLC, Honolulu International Airport, Tax Map Key: (1) 1-1-76: Portion of 23.**
- ITEM M-7 Issuance of a Revocable Permit for Air Cargo Operations, United Air Lines, Inc., Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.**
- ITEM M-8 Issuance of a Revocable Permit for Ramp Parking Areas to Support a Fixed-Base Operation, Bradley Pacific Aviation, Inc., Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.**
- ITEM M-9 Issuance of a Revocable Permit for Office Space, United States of America, General Services Administration for and on Behalf of U.S. Department of Homeland Security, Moloka'i Airport, Tax Map Key: (2) 5-2-04: Portion of 8.**
- ITEM M-10 Issuance of a Revocable Permit for Space for a Plant Quarantine Inspection Station, State of Hawai'i-Department of Agriculture, Lihu'e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.**
- ITEM M-11 Issuance of a Revocable Permit for Commuter Terminal Spaces for Tour Operations, Fly Kauai Inc. and Air Ventures Hawai'i, LLC, Lihu'e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.**

Abby Lareau with DOT-AIR asked the Board for approval for items M-3 through M-11 with the exception of M-6 that was deferred.

Member Roehrig asked Lareau to attach the portion of the lease that is being asked for approval going forward. He wanted it flagged so he could read it.

9:12AM Member Woodside arrived.

David Bettencourt appeared on behalf of Safari as well as an airport tenant testified on item M-11. He explained that this property was denied to helicopter operators but allowed fixed wing operators.

Member Gomes made a motion to approve items M-3 through M-5 and M-7 through M-11. Member Roehrig seconded.

Unanimously approved as submitted (Gomes, Roehrig)

ITEM M-2 Issuance of Revocable Permit to Dependable Hawaiian Express, Inc., Pier 23, Honolulu Harbor, Honolulu, O‘ahu, Tax Map Key:1st/1-5-38 (portion of parcel 5).

Calvert Chun representing the Department of Transportation-Harbors Division, DOT-HAR presented item M-2.

Member Yuen asked why this was being done by a revocable permit and not at least being processed for a longer term tenancy. Chun explained that harbors is going through their master planning for that area and they don't want to commit to a longer term. This was okay with DHX and was roughly around 2 years.

Chair Case commented that it would be useful to have a practice of explaining why something is on a revocable permit. This would be helpful in making it a standard provision.

Unanimously approved as submitted (Gomes, Roehrig)

ITEM D-9 Amend Prior Board Action of November 13, 2015, Item D-11, Authorize the Issuance of Right-of-Entry for Due Diligence Purpose Regarding Proposed Shelter Facility for Homeless Population; Aio Foundation, Applicant; Moanalua, Honolulu, O‘ahu , TMK (1) 1-1-003:003, 204 to 207, and 212.

The Amendment is to Authorize the Placement of a Temporary Portable Structure.

Russell Tsuji Administrator for Land Division-LAND conveyed item D-9 and asked to amend the submittal to add the exemption notification asking the Board to declare the project exempt as having little or no environmental impacts.

Member Yuen said he didn't have a problem approving the exemption, but asked what would happen with the emergency declaration over homelessness. Tsuji said they looked at it but this project isn't covered; they are told this is a private project. Only State and County projects qualify under the proclamation. This is only for the demonstration project.

Duane Kurisu explained that they are still going through the process. They would like to be in the proclamation, but it's not looking like they will because they are not a State agency and they are a nonprofit.

Chair Case asked who would run this.

Gordon Furitani testified that he would be helping with this project. Their plan is to construct the facility, they are not going to be running the facility. They are going to turn it over to an unidentified entity. They still don't know if they are going to a transitional housing or permeant type housing.

Chair Case clarified that this permit was just for the demonstration unit and if it works, then the goal is to use it for this site. Their focus was on the facility itself. Kurisu clarified.

Member Roehrig asked about the radiation. Furitani said it was fine.

Member Gomes asked when the units were going to be torn down, he was too was concerned about the radiation in the debris coming in. He also asked if the containers were being modified. Kurisu said the containers would be modified.

Member Downing asked if the land was checked. Furitani said not yet, everything would be done at one time. He then asked if the radio tower that was going to be moved there would affect the people. Furitani said no, there won't be any occupants.

Member Gomes asked how these units compare to what the County is putting together. Kurisu said there is foam inside the metal and keeps the units cool. The inside looks like an apartment. The units they are working on are highly flexible, they can include double or single units.

Member Yuen commented that he had seen this before done in Japan and this idea is livable.

Member Gomes asked what type of inventory there was. Furitani said there were about 5,000 multi- dwelling units.

Chair Case asked how the plumbing and electrical worked. Lloyd Sueda an architect for the company explained that they were modular units that just slip together; the units in Japan have a bathroom and kitchen, but they are still undecided if the same would be done here. If they can get it analyzed and approved, then yes.

Member Roehrig applauded and commended this project.

Furitani and Kurisu commended staff.

Member Roehrig made a motion to approve as amended. Member Gomes seconded.

The Board amended the staff submittal: (a) by attaching to the submittal the Exemption Notification dated Feb. 10, 2016; and (b) adding a new Recommendation 1 to read as follows:

- 1. Declare that, after considering the potential effects of the proposed action and disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, the proposed action will probably have minimal or no significant effects on the environment and is therefore exempt from the preparation of an environmental assessment.*

And the remaining recommendations were renumbered accordingly.

Unanimously approved as amended (Roehrig, Yuen)

ITEM K-2 Conservation District Use Application (CDUA) OA-3754 for After-the-Fact Erosion Control and Drainage Improvements, and Site Remediation by Poka Place LLC Located at the Diamond Head State Monument, Island of O‘ahu, Tax Map Key: (1) 3-1-042:017.

Sam Lemmo Administrator for the Office of Conservation and Coastal Lands-OCCL gave background on item K-2. In 2013 OCCL discovered that there were improvements made and a notice of violation was sent. There was an enforcement proceeding. In September 2014 the Board found Polka place in violation, there was a \$14,000 fine and there was a number of condition. One condition required them to remediate the work that had been done, another allowed them to apply for an after the fact permit. They paid the fine and have submitted an application to retain some of the erosion control structures. They are here today to determine whether or not they will be allowed to retain the structures. There were exhibits of structures they would like to retain. The main issue is there is a large retaining wall that would create erosion problems if removed. Most of the other improvements that were made were going to be remediated by hand tools. After reviewing OCCL feels it is reasonable and don't have objections to them retaining some of these things. OCCL is suggesting the Board's authorization subject to 24 conditions.

Chair Case disclosed that that Angus Mitchell was a donor about 5 years ago to her former employer; she had no financial interest and was not recusing.

Member Woodside had a similar disclosure; Angus Mitchell was a donnor to her current employer, The Nature Conservancy.

Member Downing asked if the driveway that is on State land that they used would that be coming up. Lemmo said that was an easement, that's not part of this.

Chair Case asked what was done as of right now. Lemmo said they just paid the fine, they were waiting until this decision until they do anything.

Peter Young introduced himself and Wayne Congawa an engineer. Young said they concur with the staff recommendation.

Member Downing asked if anything was ever disclosed when the house was purchased, ie. runoff/mountains sliding. Young wasn't sure about the retaining part, but the area where the detaining wall was now had been a wooden structure that rotted, so they put in a rock wall. He wasn't sure if the wooden wall was on private land or State land. Young reminded the Board that there was a drainage easement that runs through the middle of the property and benefits the State.

Member Roehrig commented that when this came before the Board last September the Board grilled them and they have gone through the process that the rules provide and didn't have a problem with it.

Member Downing said that his problem with this was if someone has the right to build on someone's property, be slapped on the hand then be told well, you already built it so you can leave some of it up that's not sending a good message. To him this project looks gigantic.

Member Yuen asked if the question about the easement has already been taken care of. Young said they had discussions with State Parks about this and anticipate with an approval today, they would then come before the Board for a right of entry to do the work as well as an easement for the area.

Member Yuen asked if that was one of the conditions of the permit. Young said that was the process and should come to the Board. Lemmo said it was listed as condition #3.

Member Roehrig made a motion to approve, Member Yuen seconded.

All were in favor except Member Downing who was opposed.

6:1 Vote.

Approved as submitted (Roehrig, Yuen)

ITEM D-3 Consent to Assignment of General Lease Nos. 3265, 3266, 3267 and S-4252, Hilo Bay Hotel, Inc. to Savio HBH Development Company LLC with the Issuance of a Month-to-Month Revocable Permit upon the Expiration of Leases, Waiākea, South Hilo, Hawai'i, Tax Map Key: (3) 2-1-005:033, 034, 035 and 045.

Written testimony was submitted by Timothy H. Irons, Michael L. Lam

Tsuji-LAND refreshed everyone's recollection; about a year ago the Board granted Uncle Billy's a right to a 1 year holdover which runs until March 16th, in addition they granted a revocable permit to be issued to Uncle Billy's until the Department and the Board have considered the redevelopment of that area considering the expired leases. About a month ago there was notice in the paper that Uncle Billy's would be closing. Mr. Savio is now interested in acquiring any rights Uncle Billy's had in its lease. This week the department was contacted by Ed Bushor expressing his interest in this hotel.

Chair Case confirmed that it would be helpful to put in land submittals for revocable permits the reason why a revocable permit-RP is the preferred way of going. Tsuji said that was fine, it was in the original submittal back in 2015.

Chair Case said that the RP in this case was to provide flexibility and not lock in a long term disposition. The terms are continuing on the same rent basis.

Member Yuen disclosed that he has a second cousin who has a business who has a contract to work with the Naniloa; he had no interest in that business or any financial interest.

Chair Case commented that there has been an expression of interest by Peter Savio and Tower Development.

Peter Savio, owner of the Pagoda Hotel testified that he was interested in expanding to Hilo and taking over Uncle Billy's Resort. They reached an agreement to take over his hotel, purchase his inventory and fund all his employees. They want to keep the hotel operating; the structure has about 5-10 years of life. He explained Pagoda is a strong local brand and want to expand to Hilo. They think it's a mistake to limit hotels in Hilo to the two big operators; they can bring a different view, and a different market.

Danton Wong, counsel for Peter Savio re-emphasized what Tsuji spoke about; 1 year ago, the Board approved the 1 year revocable permit-RP and the month to month. This was approved to give the State time to decide what they wanted to do with the area. He also noted that Uncle Billy's was going to close February 1st, when Savio found out, he approached them and the agreement was to buy their FF&E for \$150,000. The agreement is conditioned on the consent of the Board to the assignment of the lease, but also to the issuance of the RP. Wong clarified that at the end of the term, the permittee does not have the obligation to remove or demolish the improvements.

Steven Lim representing Hilo Bay Hotel introduced Arthur Lessing representative of the current lessee.

Arthur Lessing disclosed that Uncle Billy and his family asked him to be present to represent their interest in this process. They wanted him to convey their affirmation/ support of the Savio team and Castle Resorts coming in to manage the property. Uncle Billy has had an interest in the local community from as far back as when he dug the holes and planted the trees on Banyan Drive. The family didn't want to carry this on any further because their emotional reserves have been exhausted. The family appreciated Savio's commitment to the local community. Uncle Billy is concern about other interested parties that have no interest in the local community. They believe Savio's interest and hiring Uncle Billy's current employees is sincere.

Member Roehrig disclosed he knew both Uncle Billy and Richard but had no financial interest in this.

Chair Case asked who Castle was. Lessing explained that they are a local administrator that Savio brought to manage Hilo Bay. They currently manage the Hilo Hawaiian; they don't own it, just manage it.

Michael Lam attorney for WHR the ground lessee to an adjacent property asked to clarify a few things. 1) Ed Bushor submitted a proposal a day prior to the meeting -- extra copies were available 2) a letter was transmitted of legal issues of what they consider to be the expired lease.

Lam asked to address comments that were made by Tsuji and Savio. 1) This area has been the subject of the redevelopment. They are concerned that the process be open so that whoever the bidder is can present their plans for the area. Only a few showed interest in the property because they weren't asked. Proper notice/obligations/ bids should be made available. 2) What Wong said that was concerning was that their agreement to purchase the FF&E was subject to several conditions; one being a guarantee that they can pay back the money to Uncle Billy's. Lam didn't think it was appropriate that Savio was the only one given the opportunity to negotiate on an open bid process. Lam asked for either deference or the option to negotiate for an open bid process.

Chair Case clarified that the lease expires on March 14th, so the lease is not yet terminated. Also the prior approval was for a holdover and a RP. Once the State is ready to do a new lease, that would go out to public process; bid or RFP.

Member Woodside asked what the assignment terms were under the terms of agreement. Tsuji responded that it would have to be under the Board's consent, and the Board's consent cannot be unreasonable.

Member Woodside asked if the current lessee usually seeks out who they would the assignee would be; not usually through a public process. Tsuji confirmed that's an assignment not involving the State.

She asked what would happen if the submittal is not approved. Tsuji explained that they would then have the prior approval. Chair Case indicated that the prior approval was the holdover lease expires March 14th, and then it converts to a revocable permit to which the land owner could revoke.

Member Yuen needed more explanation. Chair Case explained that there was a public announcement of closure, but no technical termination.

Member Roehrig asked Savio what agreement was made with Uncle Billy's if the Board did not pass this item today. Savio said the Uncle Billy made it clear that if the motion does not pass then all the employees have been terminated as of today, Savio is supposed to take over tomorrow. The hotel will close. Savio made it clear that this was not a profitable hotel.

Member Roehrig was concerned about the 27 employees; he didn't see anyone standing up for them. Savio disagreed, he said he took over the property, he took a risk, and he's trying to save those jobs. He cares about the employees and is going to work with them. He had to pay the losses because for those employees. Savio was offended by some of the comments made.

Lessing made it known that Savio's compassion is why Uncle Billy wants Savio to take over.

Ed Bushor president of Tower Development testified in the capacity as owner of Naniloa and in the capacity of a developer. He explained that he was relying on Uncle Billy's going out to bid on March 14th. Bushor said he had the same interest in Hilo as Savio.

Member Roehrig expressed his concern about wanting Naniloa complete before Bushor starts working on another project. Bushor said they are on schedule, that's not an issue.

Bushor indicated that there should be a joint security guard for the hotels in that area because of all the crime. He asked the Board to consider safety and life conditions for Uncle Billy's.

Tim Irons an attorney that spoke on behalf of Ed Olson testified that Olson requests that the consent that the Board is being asked to give be withheld and that the permit be rejected. He asked that this be considered to be opened up to a competitive bid process. Olson has developed a lot of businesses in the Hilo area and has a passion for this area. Olson also has an interest in the Naniloa. His interest is to see the Banyan Drive area be redeveloped. Olson feels this process is being rushed.

Don Inouye president of Reed's Bay Hotel Ltd. testified that the most important thing is to keep Uncle Billy's open. Inouye supported Uncle Billy's decision and felt it should stay the way it is.

Randy Kurohara, Managing Director for the County testified in support of the transfer of the lease to ensure that the employees keep their jobs and so that the availability of the rooms are there. Their main concern is that Uncle Billy's stays open and the workers keep their jobs. He suggested looking at the language in the lease, if allows the lessee to hand it over to who they choose, then that should play a role in the Board's decision.

Chair Case urged the County to try to get as far along on the master planning side as possible. Kurohara said that was their intent.

Bushor explained that the proposal that Tower wanted to put forth.

Mr. Applegate commended Uncle Billy and offered his comments.

Patricia Inouye-Hidenfield testified on behalf of Reed's Bay. She asked if within the year they will be expected to vacate or if they will still have time there. Chair Case suggested she asked Tsuji, she wanted to keep the discussion to testimony.

Dan T. (with Savio) testified that it seemed there was nothing before the Board to open this up to open bidding. If the idea really was to open it up, then staff would need to prepare. Seems like the earliest to get anything out would be sometime in March, then to get anything back would be after that. They understand the risk, things can change, but from the Savio and Uncle Billy's perspective, it's important to make the decision now so they know how to move forward. If this doesn't get approved today, then Uncle Billy's is going to close tomorrow, it will then be in the Department's hands to figure out what to do with the lease.

Member Yuen asked if the employees and Uncle Billy's are unionized. Lessing said no.

Member Woodside asked Tsuji to clarify receiving notice of the termination of Uncle Billy's lease. Tsuji said that Hawaii district was informed, it may have been verbally.

Member Woodside asked what he thought about the timing. Tsuji explained that they are trying to avoid a shutdown situation. A full blown auction for a lease can take a long time.

Member Woodside asked if there were situations where there was more than one applicant. He said very rarely. The competition for this came in this week; two weeks ago no one was interested, now there are a few.

Chair Case clarified that the formal process to go out to full public bid was not required for a RP.

Member Yuen ask Bushor if the Board were to give him a RP starting March 15, how would he furnish the property. Bushor asked what the conditions of the assignment were. He thought the Board should put out their reasonable conditions and then the people that want the assignment will determine if they want it.

Savio clarified that Uncle Billy closed the hotel February 1st and Pagoda hotel is paying to keep it open; they are guaranteeing any losses he suffered.

Tsuji explained that if Uncle Billy's closes, it will cost the department lots of money and staff time to secure the site.

Member Roehrig made a motion to go into Executive Session pursuant to Section 92-5(a) (4), Hawai'i Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities. Member Gomes seconded.

Everyone voted in favor.

12:32 PM EXECUTIVE SECESSION
2:05 PM RECONVENE

AG Linda Chow replaced AG Colin Lau.

Member Yuen asked Savio if he had a commitment on hiring Uncle Billy's current employees. Savio said they have already hired them. The employees are under Castle, under their personnel department.

Member Yuen asked if there was an agreement with Hilo Hawaiian in the event that the lease is terminated that the people booked at Uncle Billy's will go to Hilo Hawaiian. Savio didn't think there was an agreement. Lessing said there were discussions with Hilo Hawaiian, no agreement.

Member Yuen made a motion to approve this item as submitted adding the following conditions to its approval of the request for the consent to assignment of the subject general leases and the issuance of the revocable permit to Savio HBH Development Company LLC:

4. *The Lessee/Permittee shall submit to staff satisfactory evidence of its ability to relocate guests to another hotel in the event the revocable permit is terminated upon 30-days written notice;*

5. *The Lessee/Permittee shall continuously operate the leased area as a hotel at the approximately the same staffing levels under the current management;*
6. *In nine (9) months or so, if staff receives proposals requesting to be issued revocable permits from other prospective hotel operators, then staff shall report back to the Board the on various applications and proposals it receives for the subject property in twelve (12) months or so.*

Member Roehrig seconded the motion.

Savio said this was unacceptable to him; he was going to have to invest close to \$300,000 in the next 3 days and commit, but he only has 9-12 months to recover that. The hotel doesn't generate that kind of income. 12 months is too short.

Member Yuen said RPs are normally brought back to the board in a year, they are month to month and staff could bring a proposal to substitute someone for him. An RP is always competitive.

Chair Case explained that they wanted to keep an eye on the County process.

Member Roehrig withdrew his second.

Member Downing seconded the motion.

Member Roehrig was not in favor.

6:1 Vote.

2:42PM Chair Case left the meeting; Member Gomes takes over as Chair.

ITEM D-14 Amend prior Board of Land and Natural Resources action of January 27, 2012, under agenda item D-14: *Memorandums of Agreement Between the Department of Hawaiian Home Lands (DHHL) and the Department of Land and Natural Resources (DLNR) for Construction and Maintenance of Certain Roads by DHHL in East Kapolei, and Subsequent Dedication of the Roads to the City and County of Honolulu (CCH) by DLNR, Tax Map Keys: (1) 9-1-16: Por. of 141, and (1) 9-1-17: Por. of 110.* The purpose of the amendment is to (1) amend tax map key references from (1) 9-1-16: Por. of 141 to (1) 9-1-16:155; (2) amend Recommendation 3 to an approval of and recommendation to the Governor the issuance of an executive order setting aside the subject lands to the City and County of Honolulu for the construction, maintenance, repair, management and operation of public improvements and ancillary purposes, and (3) amend the terms of applicable Memorandums of Agreement between DHHL and DLNR.

Tsuji-LAND explained that this matter was coming back to correct some Tax Map Keys-TMKs and LAND is asking that this be a Governor's Executive Order, both parties are agreeable. There was a DHHL representative, but he had to leave.

Unanimously approved as submitted (Woodside, Downing)

ITEM D-10 Issuance of Right-of-Entry Permit to Hawai'i Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach on March 7 & 8, 2016, Waikiki, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037:021 (Portion).

Tsuji-LAND said that from the Turtle Bay matter, the additional security deposit was just for that matter.

Member Downing said that going forward they were going to ask that from everyone.

Member Downing asked why this canoe that they were launching from was so far away the hotel. Brutus Albrat the Operations Manager for Hawaii Explosives explained that that position of the canoe is for the safety of the hotel. If they move it any closer prevailing winds may carry debris toward the rainbow tower.

Member Downing asked if they did fireworks at the Kahala hotel. Albrat clarified that this was for the Duke Kahanamoku display. Member Downing understood, but he wanted to know if their company did fireworks for the Kahala Hotel. Albrat said they did but he would need to confirm what dates exactly.

Member Downing asked if they were there July 13th. Albrat would have review to answer that question. Member Downing continued to question Albrat about the debris blowing into the parking lot and that fell into the lagoon. Albrat said they cleaned it up when it's done.

Member Downing brought out a trash bag full of debris that he found in the ocean during one visit. He explained that this was why he wanted a deposit, there needed to be some kind of resource for them to clean up.

Tsuji commented that they would probably need to hire someone to professionally check the ocean for cleanup. He suggested having the permittee hire someone to professionally check the cleanup.

Member Roehrig asked about the clean water act, Tsuji said he wasn't familiar with it.

Member Downing disclosed that he was not against fireworks, or Albrat's business; he just wanted to look out for the ocean.

Albrat said their concern was not about cleaning up, but it was the arbitrary nature and how it is going to apply to their productions going forward. He asked if it only applied to fireworks or

other commercial activity on State lands, and didn't know where this arbitrary \$2,500 figure came from.

Member Roehrig said that was a reasonable estimate of if they will clean up or not.

Member Gomes told Albrat to sit with staff and come up with a compromise or reasonable solution on how the cleanup will be protected.

Tsuji suggested modifying the permit conditions to address a bond or cash for cleanup. He said he doesn't have the capability of getting a diver; they could tack on an administrative fee to hire someone.

Member Woodside commented that this may seem like a new economic cost, but this is also an environmental cost that has gone unpaid for many years.

Cal Miyahara with LAND explained that he was the inspector who did the inspection after the fireworks at Turtle Bay. He suggested that ocean cleanup be site specific; the water at Turtle is fossilized coral, people would be put at risk. The second point was in the Duke Kahanamoku area, Hawaii Explosives is responsible for cleaning up the beach area, not the parking lot; so that would need to be changed.

Member Downing made a motion to approve with amendments. Member Roehrig seconded.

The Board amended the recommendation section by adding the following:

2C. Cash deposit of \$2500 from Hawaii Explosives to assure the area is adequately cleaned up the area after the show. The deposit is refundable if the area is determined to have been adequately cleaned up to staffs' satisfaction.

2D. If not already provided for, the Right of Entry document shall contain a covenant from Hawaii Explosives to clean up the area after the show;

2E. As to future shows, Hawaii Explosives is required to meet with staff forthwith to discuss a workable and reasonable; (i) amount for the refundable cash deposit; (ii) provisions that would assure the area is cleaned up free of fireworks debris after a show to the satisfaction of staff; and (iii) whether any additional administrative fee would be appropriate to cover staff time and costs.

Unanimously approved as amended (Downing, Roehrig)

Savio announced that they have talked to Uncle Billy and will move forward and be taking over tomorrow.

3:25 PM Chair Case returned.

ITEM K-1 Contested Case Petition HA-16-01 by Josephine Tanimoto regarding a Time Extension Request HA-16-01 for Conservation District Use Permit (CDUP)

HA-3495 for an Open Ocean Fish Farm by Hawai'i Oceanic Technology, Inc. offshore of Malae Point, North Kohala, Hawai'i, Tax Map Key (3) 5-0-000:000.

Sam Lemmo Administrator for the Office of Conservation and Coastal Lands-OCCL reviewed item K-1. Jojo Tanimoto sent in the petition after the time period in which you are required to file. OCCL sent it to the attorney general's office and they allowed publication of their decision. OCCL was advised that there was no standing.

Jojo Tanimoto a lessee in South Kohala testified that the EIS has nothing about South Kohala, everything is North Kohala. Tanimoto and her community feel it's wrong that they are not included in the EIS. Tanimoto asked what the remedy was for them.

Member Woodside asked if Tanimoto's concern was the transport from the cages to Kawaihae Harbor. Tanimoto confirmed, as well as the waste products.

Member Roehrig suggested Tanimoto go to the Native Hawaiian Legal Corporation for help.

Tanimoto asked if the Board could make staff go out and talk to her community. Member Yuen told her that if the effort to get out was not made then that could affect the Board's future decision on a future time extension.

Bill Spencer with Hawaii Ocean Technology testified that after the October hearing, he met with Leimana DaMate, Director of the Aha Moku. He asked to meet with Tanimoto but a meeting could not be set up until July due to scheduling. DaMate did tell him that meetings would be arranged with the community. Spencer said he would be there. He said they were talking to the community with the issue of the EIS. They are more than happy to continue to work with the community.

Member Yuen was satisfied and made a motion to approve, Member Roehrig seconded.

Unanimously approved as submitted (Yuen, Roehrig)

ITEM D-7 Cancellation of Revocable Permit No. S-7220 to the Department of Land and Natural Resources, Division of Forestry and Wildlife; and Issuance of a New Revocable Permit to Maui Invasive Species Committee (MISC), Ka'elekū, Hāna, Maui, Tax Map Key: (2) 1-3-004:015.

Tsuji-LAND had nothing to add.

Francine Frost, a farmer in Hana testified that their parcel is adjacent to the property in question and they grow cacao. They have planted out their entire property and would like to expand. They asked to be considered to be part of the lease.

Frost handed out samples of their chocolate.

Member Yuen said this wasn't on the agenda so their request could not be fulfilled today. He said the only thing that can be done is the Board approve this, then Frost work with staff to bring this back. Member Yuen told her that he wasn't sure that this would be possible.

Robert Frost said that he spoke with the manager and they are in agreement.

Chair Case suggested working with the Maui land division.

Sherri Mann with DOFAW asked Tsuji if this submittal passed through Scott Fretz in Maui. Tsuji said he was sure they were involved.

Member Gomes made a motion to approve, Member Roehrig seconded.

Unanimously approved as submitted (Gomes, Roehrig)

ITEM B-1 Requesting to enter into a Memorandum of Understanding between the State of Hawai'i Department of Land and Natural Resources and Marine Corps Base Hawai'i for the staging of a Division of Conservation and Resources Enforcement Patrol Boat aboard Marine Corps Base Hawai'i at Kaneohe Bay.

Guy Chang Oahu Branch Chief for the Division of Conservation and resources Enforcement-DOCARE reviewed item B-1 and make an amendment to authorize the Chairperson to enter and sign a Memorandum of Understanding with Marine Corps Base Hawaii on behalf of the Department of Land and Natural Resources to allow staging of a DLNR patrol Board and for parking space for 1 vehicle and trailer on property of the Marine Core Base Hawaii, Kaneohe Bay for law enforcement purposes and subject to review and approval by the office of the attorney general.

Member Roehrig made a motion to approve the amendment, Member Gomes seconded.

Unanimously approved as amended (Roehrig, Gomes)

ITEM C-1 Issuance of Special Use Permit to Palani Ranch Company, Inc., Kailua-Kona, North Kona, Hawai'i, Tax Map Key (3)-7-4-002: Portion of 007 To Employ Livestock Grazing For Wildfire Prevention.

And

Request Approval of Declaration of Exemption from Chapter 343, Hawai'i Revised Statutes, Environmental Assessment Requirement for the Project.

Sheri Mann acting Administrator for the Division of Forestry and Wildlife-DOFAW explained that this has been ongoing for 7 or 8 years and DOFAW needs help keeping fuel loads down in this area and Palani Ranch has cattle that need pasture. The goal was to keep fuel loads down

until DOFAW prepared a management plan and had the financial resources to implement the plan. It hasn't happened, but it's hopeful to happen within the next year or two. Palani Ranch also allows DOFAW to go over their land to reach DOFAW lands which are land locked. DOFAW is asking to extend this for 1 more year.

Unanimously approved as submitted (Roehrig, Gomes)

ITEM C-2 Request for Delegation of Authority to the Chairperson to Negotiate, Approve, Execute and Amend a Memorandum of Agreement with the Hawaiian Electric Company (HECO) Regarding Donation of Funding for the Construction of a Predator-Proof Fence to Protect Endangered Hawaiian Tree Snails in the Pahole Natural Area Reserve, O'ahu, Tax Map Key 1-6-8-001-002.

Sheri Mann and David Sisco-DOFAW presented item C-2, an agreement has been made with HEO to provide funding and upgrade a fence that offsets the damage and provides DOFAW with the funds.

4:07 PM Chair Case left.

Member Gomes asked what a snail fence was. Sisco disclosed that a snail fence was predator proof fence that keeps predators out. The fence is about 4.5 feet high.

Member Woodside asked how big of an area the fence was. Sisco said it was small, about a quarter of an acre.

James K. Manaku Sr. commented that he was familiar with this place, but his concern was Jackson Chameleons climb over the fence. He asked how the birds were going to be addressed. He felt DOFAW should be more proactive. Rats are also a problem.

Member Woodside made a motion to approve, Member Yuen seconded.

Unanimously approved as submitted (Woodside, Yuen)

ITEM C-3 Request to Conduct a Public Hearing Regarding the Nāpu'u Conservation Project: Draft Habitat Conservation Plan for Game Management at Pu'u Wa'awa'a and Pu'u Anahulu.

Sheri Mann-DOFAW and Afsheen Siddiqi presented item C-3. They would like to do two public hearings to get input from the public and let them know what DOFAW is doing.

Member Yuen disclosed that he was a member of the Pu'u Wa'awa'a advisory council but had no financial interest and the council was not directly involved in this project.

Member Yuen asked about the fires. Mann said DOFAW was monitoring it.

Unanimously approved as submitted (Yuen, Woodside)

ITEM C-4 Request Approval to Enter into a Right-of-Entry Agreement with the Agribusiness Development Corporation for Well Inspection and Testing, and for Surveying of a Pipeline Alignment, for the Mānā Plain Wetland Restoration Project, Mānā Plains Forest Reserve, Waimea, Kaua‘i, Tax Map Key: (4)1-2-002:001 (POR); and to Authorize the Chairperson to Finalize Terms and Sign the Agreement.

Sheri Mann-DOFAW explained that this would be an important improvement. There is a draft MOU; DOFAW is going through all the legal processes to go through with this.

Member Gomes asked how much water would be used for this. Mann said 100 thousand gallons a day. No one was using the well and the terms were going to be specified in the MOU. The details would be brought back to the Board.

Unanimously approved as submitted (Yuen, Woodside)

ITEM K-3 Proposed Memorandum of Understanding between The State of Hawai‘i, Department of Land and Natural Resources, by its Board of Land and Natural Resources and the Waikīkī Beach Special Improvement District Association to Help Fund the Replacement of the Royal Hawaiian Groin at Waikīkī, O‘ahu, Hawai‘i.

Sam Lemmo, Administrator for the Office of Conservation and Coastal Lands-OCCL conveyed item K-3.

Member Downing suggested changing the language to include the word “restore” in the EA because the draft EA talks about restoration. He asked why nothing good has been talked about the wall; if its 88 years old then something good has to have come from the wall. Lemmo said he would change the MOU to reflect the EA.

Member Roehrig made a motion to approve as amended, with the amendment to add in the word “restore”. Member Woodside seconded.

Unanimously approved as amended (Roehrig, Woodside)

ITEM C-5 Informational Briefing on Rapid ‘Ohia Death.
(No Staff Submittal/Non Decision Making)

Deferred.

ITEM D-1 Issuance of Revocable Permit to Michael Fernandes and Leland Fernandes for Pasture Purposes, Wailua, Kawaihau (Puna), Kaua‘i, Hawai‘i, Tax Map Key: (4) 4-1-009:007 and 4-1-010:016.

Kevin Moore, Assistant Administrator for Land Division-LAND had no changes or amendments.

Member Gomes asked if there was any dialogue between DLNR and the Department of Agriculture regarding Ag land leases that need to have trained and qualified appraisers to properly fair market rent. He was also concerned about the arbitrary formula. He would like to see DLNR work with people who are actively involved; ie. Mark Thorne.

Member Roehrig agreed and provided his own comments. He believed there should be a fundamental change in policy.

Member Gomes asked if the formula came out to \$17.50, why it was arbitrarily saying \$40. Moore explained that the Board has a minimum rent policy, which is based on the idea that any disposition cost \$40 for staff time and research; that's the minimum rent.

4:49PM Member Roehrig left the meeting.

Unanimously approved as submitted (Woodside, Yuen)

ITEM D-2 Issuance of Revocable Permit to Michael Fernandes and Leland Fernandes for Pasture Purposes, Wailua, Kawaihau (Puna), Kaua'i, Hawai'i, Tax Map Key: (4) 4-1-009:020.

Member Yuen said this was adjacent to Forest Reserve, so he assumed there would be fencing. Moore said it was standard.

Member Gomes commented that he would like to get something to the Board saying that LAND is in dialogue with the respective agencies. He also asked for an update from University of Hawaii, Department of Agriculture, and the Hawaii's Cattleman's Council. He would like to see a report back to the Board that this would be resolved.

Unanimously approved as submitted (Woodside, Yuen)

ITEM D-5 Approve a 10-Year Term Extension of General Lease No. S-3670, Machida, Inc., Lessee, Pursuant to Act 207, Session Laws of Hawai'i 2011 and an Amendment of Terms and Conditions Regarding Allowed Use, Assignment and Sublease Provisions for General Lease No. S-3670; Lot 30, Kanoolehua Industrial Lots, Waiākea, South Hilo, Hawai'i, Tax Map Key: (3) 2-2-050:098.

No changes.

Unanimously approved as submitted (Woodside, Yuen)

ITEM D-6 Approve Mediated Settlement of Rent Reopening Dispute in General Lease No. S-4478, Boteilho Hawai'i Enterprises, Inc., Lessee, located in Hāmākua, Island of Hawai'i, Tax Map Key No. (3) 4-3-010:002.

Member Yuen requested that land send a note to DOFAW that a Board member has inquired and wanted them to be aware that this exists and if there is anyone there interested in a site for koa protection management or restoration that this is a potential site.

Member Yuen's second comment was that if there was some error in the way the appraisal was made, it should be applied across the board or generally in the future. Kevin Moore-LAND responded that a mediated determination of rent can become a comp for future appraisers to look at.

Member Yuen made a motion to approve as submitted. Member Woodside seconded.

Unanimously approved as submitted (Yuen, Woodside)

ITEM D-8 Issuance of Right-of-Entry Permit to the Maui Interscholastic League for Surf Contest Purposes, Haneoo, Hana, Maui Tax Map Key (2) 1-4-007: 009 por.

No changes.

Unanimously approved as submitted (Yuen, Downing)

ITEM D-11 Issuance of Right-of-Entry Permit to Hawaiian Electric Company, Inc. for Surveying, Soils Testing and Engineering Studies Purposes on Lands Encumbered by Governor's Executive Orders 569, 2036, and 2539, Waikīkī, Honolulu, O'ahu, Tax Map Key: (1) 2-7-036:001 and 007.

Member Gomes asked what they were doing. Moore-LAND said they project was to dredge the Ala Wai Canal; HECO has lines in the ground, so they are doing soil testing.

Unanimously approved as submitted (Woodside, Yuen)

ITEM D-12 Issuance of Revocable Permit to Kazuto Yamada for Agriculture Purposes, Termination of Revocable Permit No. 7564, Waimānalo, Ko'olaupoko, O'ahu, Tax Map Key: (1) 4-1-008:071 and portion of 072.

Member Gomes asked how long ago Yamada has been using parcel 71, and how much was the lease he is currently paying.

Moore-LAND said the monthly rental was \$108.

Member Gomes asked how much of parcel 72 was lost to flooding and was he still funding part of 72. Moore said he was using up to 4 acres of parcel 71 and 10 acres in parcel 72. Member Gomes understood, but he asked if any remediation was done. Moore didn't think any kind of work was done, he just assumed he withdrew from the areas that were prone to flooding. Moore said he would find out.

Member Yuen commented that Yamada was in a revocable permit for 40 years. He asked that this be explained when it is brought back.

AG Colin Lau addressed the attachment form DHHL.

Member Yuen made a motion to amend per the request of DHHL. Member Downing seconded.

The Board amended the character of use of the revocable permit in accordance with the request of the Department of Hawaiian Home Lands. The character shall be: *“Growing of flowers pertaining to permittee’s lei making business.”*

Unanimously approved as amended (Yuen, Downing)

ITEM D-13 Consent to Assign and Amend Grant of Non-Exclusive Easement, S-4543, Terence McTigue and Dorene McTigue, as Assignors, to NBL II, LLC, as Assignee; Kawailoa, Waiālua, O’ahu, Tax Map Key: (1) 6-1-008:seaward of 031.

No changes.

Unanimously approved as submitted (Yuen, Woodside)

ITEM E-1 Amendment of General Lease No. SP0168, Back to Eden, Inc., Lessee, Waimea Canyon State Park, Lot 79 Koke’e Campsite Lots, Waimea (Kona), Kaua’i, Hawai’i, Tax Map Key: (4) 1-4-004:063, The Purpose of the Amendment is to Correct the Termination Date to Read December 31, 2028;

Consent to Assign General Lease No. SP-0168, Back to Eden, Inc., Assignor, to Christine R. Wilkinson, Assignee, Lot 79, Koke’e Campsite Lots, Waimea (Kona), Kaua’i, Hawai’i, Tax Map Key: (4) 1-4-004:063.

Curt Cottrell Administrator for State Parks-PARKS asked to amend the terms of the lease on page #2 it should read December 31, 2028 to reflect the title, he also amended the recommendation to reflect the same.

Member Yuen asked Cottrell to find out if the original award of this lot makes it improper to do this assignment now. He asked to defer until it is confirmed that this is okay.

AG Colin Lau suggested deferring the determination of the assignment and approve the error in the termination date.

Member Yuen made a motion to defer the assignment of the lease, but approve the error in the termination date.

Unanimously approved as amended (Yuen, Woodside)

ITEM E-2 **Amendment of General Lease No. SP0145, Anne Colgate Sutton, Lessee, Waimea Canyon State Park, Lot 37, Pu'u KaPele, Waimea (Kona), Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-002:044, The Purpose of the Amendment is to Correct the Termination Date to Read December 31, 2028;**

Consent to Assign General Lease No. SP-0145, Anne Colgate Sutton, Assignor, to Anne Colgate Sutton and Richard Carpenter Sutton, Jr., Assignees, Waimea Canyon State Park, Lot 37, Pu'u KaPele, Waimea (Kona), Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-002:044.

Cottrell-PARKS had the same amendment for item E-2.

Unanimously approved as amended (Yuen, Gomes)

ITEM L-1 **Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai'i Administrative Rules for Job No. F55C642D, Waiānapanapa State Park, Walkway Improvements, Hāna, Maui, Hawai'i.**

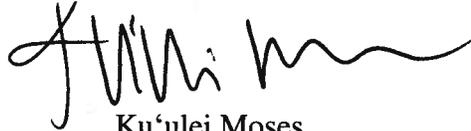
Carty Chang, Chief Engineer presented item L-1 with no changes.

Unanimously approved as submitted (Downing, Woodside)

5:22 PM Member Yuen made a motion to adjourn; Member Roehrig seconded; all were in favor.

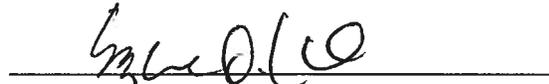
There being no further business, Chairperson Suzanne D. Case adjourned the meeting at 5:22p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ku'ulei Moses', written in a cursive style.

Ku'ulei Moses
Land Board Secretary

Approved for submittal:

A handwritten signature in black ink, appearing to read 'Suzanne D. Case', written in a cursive style, positioned above a horizontal line.

Suzanne D. Case
Chairperson
Department of Land and Natural Resources