

APPROVED BY THE BOARD
AT ITS MEETING HELD ON
JUL 28 2017

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

DATE: FRIDAY, MARCH 24, 2017
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAI'I 96813

Chair Suzanne Case called the meeting of the Board of Land and Natural Resources to order at 9:02 a.m. The following were in attendance:

MEMBERS

Suzanne Case
Thomas Oi
Stanley Roehrig
Sam "Ohu" Gon

James Gomes
Chris Yuen
Keone Downing

STAFF

Russell Tsuji-LAND
David Smith-DOFAW
Marvin Miyasaka-LAND
Ross Smith-DOT-AIRPORTS

Alton Miyasaka-DAR
Kevin Moore-LAND
Richard Howard-LAND

OTHERS

Colin Lau/Deputy AG
Randy Teruya/D8
Barbara Natale/E1
Todd Apo/K1
Ben Trevino/M1

Tracy Gothardt/C1
John Park/D9
Tina Prettyman/J2
Calvert Chun/M1

A. MINUTES

1. Approval of January 13, 2017 Minutes.

Unanimously approved as submitted. (Gon, Gomes)

2. Approval of January 27, 2017 Minutes.

Unanimously approved as submitted. (Gon, Gomes)

3. Approval of February 10, 2017 Minutes.

Unanimously approved as submitted. (Gon, Gomes)

4. Approval of February 24, 2017 Minutes.

Unanimously approved as submitted. (Gon, Gomes)

Ross Smith, Administrator for Department of Transportation-DOT-AIR briefed the Board on items 2 through 4.

ITEM M-2 Issuance of a Revocable Permit for Ground Support Equipment and Warehouse Space, Hawaiian Airlines, Inc. Honolulu International Airport, Tax Map Key: (1) 1-1-003:248 (Portion).

Member Oi had questions about item 2, where was the location was and how much area at the airport does Hawaiian Airlines have under lease or permit?

Smith-DOT replied, the location is where the old Aloha Airlines maintenance facility was. He was not sure, Hawaiian leases land for maintenance facilities, some common use gates that are preferential to them due to the amount of flights they have, they occupy the inter-island terminal primarily, that is the basic area they hold.

Member Oi then asked, if the new maintenance buildings across the inter-island terminal used by Hawaiian?

Smith-DOT said, yes, we have issued a lease, it was intended for them when we did the project so we could demolish the old Hawaiian and Aloha Airlines maintenance facilities and for the expansion for ramp space and extension of the inter-island terminal.

Member Oi mentioned he heard that recently Hawaiian started using Gate 4 on Kauai for inter-island flights, originally it was used for mainland flights. Are they trying to establish it as one of their major gates? He heard that if they use the gate for a certain percentage of time it becomes their gate and other airlines would have a hard time using it.

Smith-DOT replied, he could not tell what Hawaiian is thinking in terms of using the gate, they must be using the gate based on their own requirements. It could become a preferential gate, if you have two planes coming in at the same time, they would have first preference to use it, however should it be empty at a time another airline arrives/departs that gate can be used by another airline.

Member Oi stated, Alaska Airlines and American Airlines use the gate sparingly during the winter months, but during the summer months they use it more.

Unanimously approved as submitted. (Gon, Gomes)

ITEM M-3 Consent to Sublease of State Lease No. DOT-A-91-0021 Alps Aircraft Leasing LLC to Goldwings Supply Service, Inc., Honolulu International Airport, Tax Map Key: (1) 1-1-72:51.

Smith-DOT replied, this contract was written in 1991, the likelihood of a premium involved for subleasing was not included at the time. That is a more recent writing into the Airports leases.

Member Yuen asked, at the time when this lease was written it allowed for Sub-lessors to make a profit directly from Sub-leases?

Member Yuen asked, is there a profit for the Sub-lessor from the Sub-lessee?

Smith said yes, it did not have Sub-leasing premium language.

Member Roehrig asked if he had a copy of the lease.

Smith said, no but he would could provide one.

Member Roehrig asked him to bring the lease next time another matter like this up.

Unanimously approved as submitted. (Gon, Gomes)

ITEM M-4 Issuance of a Fuel Facilities Lease by Notice of Public Auction, Kalaeloa Airport, Tax Map Key: (1) 9-1-13:32 (Portion).

Member Yuen, said it sounds like they are bidding on a monthly/annual minimum?

Smith replied yes, on the upset price is the minimum requirement.

Member Yuen commented, so the fuel flowage is not being bid on.

Smith replied, no, the fuel amount is the set amount we charge all fuelers.

Member Yuen said that when the lease came in for direct negotiation for Honolulu International Airport, for the fueling facility, DOT provided information why it made sense, Kalailoa is a smaller operation I want to be sure that there is something in the contract that will prevent the fueling operator from indirectly controlling who operates out of Kalailoa.

Smith-DOT, in general our leases do say that if you are doing a fuel facility, you are providing it to the community. You cannot say to any particular individual you cannot use it. This actually is automated, self-serve gas station.

Unanimously approved as submitted. (Gon, Gomes)

Calvin Chun, representing the Department of Transportation Harbor Divisions-DOT-HARBORS, summarized item M-1. The use of this warehouse is to put together bike stations so they can deploy them out into the field.

ITEM M-1 Issuance of Gratis Revocable Permit to Bike Share Hawaii for Approximately 9,000 SQ. Ft. of Warehouse Space Approximately 5,000 SF of Unpaved Land Adjacent to the Warehouse for Staging, Parking, and Miscellaneous use at Snug Harbor, Honolulu Harbor, Oahu, Tax Map Key: (1) 1-02-25: 017 (Portion). Located Adjacent to Sand Access Road.

Ben Travino, President & Chief Operating Officer of Bikeshare Hawaii, described the program as a public transit system. Bike sharing is a transportation option. There will be a thousand bikes spread out among a hundred stations. We plan to use this space to assemble our bike stations and it should only take a month.

Unanimously approved as submitted. (Gon, Gomes)

Dana Yoshimoto, Division of Boating, and Ocean Recreation (DOBOR) gave a background summary of the Lease.

ITEM J-2 Consent to Sublease Harbor Lease No. H-83-2, Kona Marine Holdings, LLC, a Delaware limited liability company, Honokohau Small Boat Harbor, Kailua-Kona, Hawaii, to Jacks Diving Locker, a Hawaii Partnership, Tax Map Key: (3) 7-04- 008:040 por.

Member Downing asked what is your definition of Gross Income versus Gross Sales? In the contract both terms are used. There is a difference.

Yoshimoto-DOBOR, Gross Income should be defined as all income from operations and sales. They have to go back and look at that and define the terms.

Member Downing noted that there are items are to be excluded, fuel related sales, goods typically sold by Jack's Diving Locker. Do they have another sublease at this property?

Yoshimoto-DOBOR, No, Jack's Diving Locker negotiated with Kona Marine a separate agreement for which they are compensated for cashing services for their fuel sales operation.

Member Downing, also being taken out are items dive tours, glasses, scuba gear, snorkeling gear, cameras, apparel, rash guards, sunscreen.

There was a discussion between the Members & Dana Yoshimura regarding the Kona Marine Holdings master lease (flat rate) and Jacks Diving Locker sublease (no income to the State) and why the State was not getting any income from the sundries sublease.

Underwood-DOBOR, Kona Marine Holdings pays a flat rate for the ground lease and a percentage of the fuel sales. What they do with their subleases is between them, similar to GKM.

Member Yuen asked whether the sundries income is included in the gross income from Kona Marine.

Member Gon mentioned that we could get around this problem by offering approval of the sublease with the understanding that the gross sales of sundries store be included in the income of the Lessee and subject to the payment terms of the Master Lease.

Member Roehrig suggested the next time you have a sublease, bring a copy of the Master Lease.

Member Gomes asked about subleases that were not notarized as well as improvements being made without permits

Public Testimony

Tina Prettyman, General Manager, GKM Inc., submitted written testimony in opposition to Item J-2 earlier this week. We intended to bring to light a couple of things that have happened over the last two decades.

1) DLNR-DOBOR has not treated our submittals for consent to sublease in the same manner as other harbor leases; we have submitted numerous requests over the past twelve years for sublease approval that were not submitted to the Board. GKM has lost a sub-tenant BMF Inc., due to DLNR-DOBOR inability to approve and process improvement plans submitted two-years earlier on June 30, 2014, to meet the Department of Health standards. GKM has been almost a year without revenue on Space 17 due to the lack from DLNR in this process resulting in a loss of thousands of dollars. Harbor Lease H-83-2 is a percentage rent lease a fact that is not included in the submittal. We lost a tenant and now I am watching a competitor make improvements un-permitted and go before the Board for consent to sub-lease without improvement plans and use not consistent with Lessee's Harbor Lease. We continue to go without a tenant in space 17 due to DLNR's failure to submit to the Board, a consent to sub-lease as requested back on August 2016. How is it that Kona Marine Holdings, LLC was able to get their request submitted before ours for uses that are not allowed in their lease and make improvements without approvals. We are frustrated with this process and being made out to be the bad guys for having to oppose this consent. If DLNR-DOBOR were doing their job, all these issues would have been addressed and would not be sitting here today. We have always been good partners with the State but are no longer going to stand by and be treated unfairly. We do not mind competing on a level playing field. I have a couple of concerns, the lease prohibits a restaurant or lunch counter operation, they are proposing to operate a deli, they say are no on-site sitting, there about four picnic benches outside of the facility that is on their property, not sure what you consider a lunch counter operation, but I see it as it is. We do not believe they have been submitting proper 5% on gross receipts for their fueling. Just taking the simple numbers and what they have paid in excess, doing the math as Mr. Yuen was doing, I think if you look closely at that number, it is far less than what they probably owe the State.

Member Yuen, asked why do you think the gross of fuel should be higher?

Prettyman replied, I think the price per gallon is low, based on the amount of boats in the harbor.

Member Yuen asked, if GKM had subleases that had a lunch counter, is there a percentage of sales in your master lease? This is not a comparable situation where you owe "X" regardless of sales.

Prettyman replied, that yes, they have a deli, a convenience store, and a restaurant.

Member Roehrig asked who is auditing the fuel sales? Can we get a monthly meter reading? What is the status of GKM's submittals.

Underwood-DOBOR replied, the property manager has requested information regarding the fuel sales.

Yoshimura-DOBOR, the information for the submittals were incomplete and they will get a letter stating that.

Prettyman replied, they have all the information and they asked for a few more things and they provided it.

Underwood-DOBOR conveyed, the Board submittal is written, we asked for follow-up information for all twelve sub-leases. Once we get all the information we will be able to finalize and come before the Board.

Member Roehrig said we have this on-going situation that needs to be resolved. We want to avoid litigation.

Chair Case said, she will work with the Division staff to make sure we are processing these equitably.

Member Roehrig asked Prettyman to keep in contact with the Chair and DOBOR staff.

Chair Case Deferred J-2 to allow time for Underwood to gather information and return to the item later in the meeting.

Tsuji-LAND summarized Item D-9

**ITEM D-9 Delegate Authority to the Chairperson to Approve the Removal of
Trees on the Lease Premises; General Lease No. S-5871; Honolulu
Community Action Program, Inc., Lessee, Waianae, Oahu; Tax Map
Key no.: (1) 8-5-002:012.**

Unanimously approved as submitted. (Gomes, Gon)

David Smith, Administrator Division of Forestry & Wildlife (DOFAW), summarized the need for the right-of-entry.

ITEM C-1 Authorize the Issuance of a Right-of-Entry Permit to 'Ohu'Ohu Ko'olau, Inc. to conduct watershed management practices on State Lands on the island of O'ahu, Tax Map Key nos.: (1) 5-3-011:009, 5-4-006:001, 7-2-001:006, 9-7-026:001, 9-7-026:002.

Member Sam Gon mentioned this was good blanket access right-of-entry for a really large area, and would help to stream-line the process.

Member Roehrig asked Member Gon to translate what 'Ohu,'Ohu is.

Member Gon replied, he was asked by the to give a name for the organization, 'Ohu'Ohu, is the way you look at the Koolau's in the morning and the clouds raising and form on the mountain top so 'Ohu'Ohu is that mist and 'Ohu'Ohu is also the word for adornment, so these guys get to adorn the Koolau's.

Tracy from 'Ohu'Ohu Koolau is present to answer any questions.

Public Testimony

James Maka, wanted insure that the Hawaiian practitioners will have gathering rights & would not be considered a trespasser. (C-5 reference)

Chair Case asked Administrator Dave Smith to describe the role of DOFAW in regards to honoring customary practices while ensuring that we have adequate management & protection.

Smith-DOFAW said, this would be a non-exclusive use of the land, public rights & customary practices, are protected by the State Constitution.

Unanimously approved as submitted. (Gon/Roehrig)

Curt Cottrell, Administrator, Division State Parks (PARKS), summarized the project to bring it into compliance.

ITEM E-1 Request for Approval of the Final Environmental Assessment ("FEA") for the Girl Scouts of Hawaii Camp Improvements Statewide: Camp Paumalu, Paumalu Ahupua'a, Ko'olauloa District, Island of Oahu, Tax Map Key: (1) 5-9-006:012; Camp Kilohana, Ka'ohe Mauka Ahupua'a, Hamakua District, Island of Hawaii, Tax Map Key: (3) 4-4-015:005; and Camp Pi'iholo, Makawao Ahupua'a, Hamakua Poko District, Island of Maui, Tax Map Key: (2) 2-4-013:074

And

Request for Authorization to the Chairperson to Issue a Finding of No Significant Impact (“FONSI”).

Member Gomes wanted to know if Camp Paumalu, with 135 acres, is all that usable, is it all cleared, are there any structures, what are they using it for, are there any invasive species, do the Girl Scouts have trails that they use or an area where the camp out, how do they get their water,

Cottrell- PARKS, responded that there is a lot of raw land and forest land.

Barbara Natele, planner from Group 70, also responded their calculation was that 12-1/2 acres of the 135 was usable land. The plan is to replace the structures and that there would be now new grading. There are two large gulches and there is likely meconial growing there.

Cottrell-PARKS added it was predominantly non-native, even in the old forest reserve.

Barbara Natele mentioned that there are trails and area is that the Girl Scouts can use, but not to the full extent yet.

Member Gomes asked outside the scope, who owns the land?

Cottrell-PARKS replied, Land Division leases to the Military and the other side is State Forest Reserve. There are private residences below.

Member Gomes asked how do they get their water? Is there a county water-line?

Natele replied, the Satellite Communications Center and then it is pumped on to the property. It is an old agreement.

No public testimony.

Unanimously approved as submitted. (Gon, Gomes)

Sam Lemmo, Administrator for Department of Conservation and Coastal Lands (OCCL) presented Item K-1, recommending a third extension for the project.

ITEM K-1 Time Extension Request OA-17-07 by Kewalo Basin LLC for a one-year extension of the construction initiation deadline on Conservation District Use Permit (CDUP) OA-3610 for the Kewalo Basin Repair Project in Honolulu, Oahu, Tax Map Keys:(1) 2-1-058: pors. 002, 035, 095, 128.

Member Gomes asked what happens if it is not approved?

Lemmo-OCCL, the permit will expire, and they would have to reapply.

Member Downing had several questions; when this first went out were there other bidders who wanted to do Kewalo? Why this third extension? This project started in 2012-2013. The premise now of this third extension, is the Transpac Race. Will the boats be there to February?

Lemmo-OCCL, correct me if I am wrong, HCDA was applying for the permit at that time. I do not know if there were any bidders.

Todd Apo - Howard Hughs Corporation. Kewalo is under our control as a subsidiary. There was an RP initially for operating the Harbor. HCDA put it out to bid and we were awarded the ground lease in 2014. The first extension happened because originally HCDA was going to develop the harbor, but did not have the budget in 2012. They wanted to have the Harbor operating. Through this 2014 lease agreement part of the agreement includes improvements to the in-water harbor, except for Fisherman's Wharf which is still under HCDA. In August 2016, we finally obtained the approval for development. Had we felt we could move the boaters and they could be accommodated, we could have started earlier. Seeing the situation and the requirements were at Ala Wai Harbor, it just made sense to reduce the impact on the boaters. By starting in September. Which is the reason for the request for an extension. We are close to signing the development contract and hope to have it done by the end of this month. We do not expect to come back in February to request another extension.

Chair Case asked if there was any other questions or testimony, if not is there a motion to approve K-1?

Member Gomes moved to approve, Member Yuen second, Member Downing wanted to amend with a starting date of September 1st.

Member Yuen replied, that strange things happen, where they may be things that are unavoidable and they cannot start on time. We are not here to manage the project, we are here for the Conservation District.

Apo- HCDA, said, while we are scheduled to start on September and we planned to do it, as Member Yuen said some things can happen, we do not plan on it, we are committed to doing this. I will make sure our team is fully aware of the need. We are anxious to go. We also want to minimize the impact on the boaters.

Chair Case asked if Member Downing was willing to withdraw his amendment.

Member Downing replied. Yes.

Member Gon acknowledged the frustration that Board Member Downing mentioned. When I served for nine years previous to this term, there were many projects that were delayed sometimes for half a decade, whenever we considered them, it was a matter of whether the delays were reasonable or unavoidable by the applicant & when there were not, and when it did seem there were some irresponsibility, there were some situations in which there was a reversal of permits and they had to start all over. It should be noted that this Board takes this responsibility seriously.

Apo-HCDA, our two Project Managers are here and will be working on this.

Unanimously approved as submitted. (Oi, Gomes)

Tsuji-LAND summarized this request for an easement to the Department of Agriculture.

ITEM D-8 Issuance of Perpetual, Non-Exclusive Easement to the Department of Agriculture for Irrigation Water Pipeline Purposes; Issuance of Immediate Construction and Management Right-of-Entry Permit; Waimanalo, Koolaupoko, Oahu, Tax Map Key no.: (1) 4-1-008:080 and 4-1-026:004 portions.

Unanimously approved as submitted. (Gon/Gomes)

Alton Miyasaka, Aquatic Biologist, Division of Aquatic Resources (DAR), presented items F-1 through F-4, which outlined continuing contracts.

ITEM F-1 Request for Approval to Add Funding (\$505,000 Federal, \$100,000 DLNR Trust Fund, \$20,000 General Fund) and Extend through FY18 the Project Agreement (Contract No. 58627, Amendment No. 8) between the Board of Land and Natural Resources (BLNR) and The Research Corporation of the University of Hawaii (RCUH) for the Division of Aquatic Resources (DAR) Research Project Titled “Statewide Marine Resources Assessment.”

Member Oi asked, is that the property that Mr. Plueger had run-off into the ocean? Is the area improving? I heard at one time that the reef was destroyed.

Miyasaka-DAR, Yes, part of the settlement that was obtained through that action was used to fund the survey of the area. I understand that the area is going through a recovery process as the waves clear away the sediment the life is coming back, it will take some time. We are monitoring the progress.

ITEM F-2 Request for Approval to Add Funding (\$689,000 Federal) and Extend through FY18 the Project Agreement (Contract No. 60395, Amendment No. 6) between the Board of Land and Natural Resources (BLNR) and the Research Corporation of the University of Hawaii (RCUH) for the Division of Aquatic Resources (DAR) Research Project Titled “Investigation of Estuarine Habitats.”

ITEM F-3 Request for Approval to Add Funding (\$510,000 Federal, \$75,000 Commercial Fisheries Special Fund) and Extend through FY18 the Project Agreement (Contract No. 60393, Amendment No. 6) between the Board of Land and Natural Resources (BLNR) and The Research Corporation of the University of Hawaii (RCUH) for the Division of Aquatic Resources (DAR) Research Project Titled “Hawaii Marine Recreational Fishing Survey.”

ITEM F-4 Request for Approval to Add Funding (\$420,000 Federal, \$50,000 Matson Settlement Trust Fund) and Extend through FY18 the Department of Land and Natural Resources (DLNR)/University of Hawaii (UH) Contract No. 60379 (Supplemental Contract No. 6) for the Project Titled “Collaborative Administration of the Hawaii Fish Aggregating Device System.”

Member Roehrig asked regarding Item F-4, wanted to know how many buoys are missing and how many were intact around the Big Island? What is the time-table to replace?

Miyasaka-DAR, I am not sure, totally there are 52 throughout the state, generally 10% go off station yearly. It took about 3-years to get NEPA compliance before we could re-deploy. The schedule of when they are to be replaced is based on the availability of vessels that we charter & we need to schedule the deployments on one trip so we can replace the whole set at once. We want to be cost effective as the largest expense is the ship time at sea. We have recently replaced a set on the Big Island and already lost one.

Member Roehrig requested be sent email that would provide a status as to where they are missing and a reasonable time for replacement

Chair Case, mentioned that there was a website that provided that information that shows where they are deployed.

Miyasaka-DAR confirmed that UH has a link, that shows where they approved sites are. It may not be current as it is periodically updated

Member Gomes, commented, this research has been going on for a while, with all this on-going study and the research that has been gathered what is the benefit to the people of Hawaii? How is that information distributed? When did this research start? What have you learned? What great strides have you made? Is it necessary to continue? Do you use that information for sustainable fishing?

Miyasaka-DAR replied, we have learned different methodologies to manage the different areas. For example, what is the failure rate of change, how long does the process take. Before it was more labor intensive, the evolution is what is the best method. Data collection is more accurate. We primarily look at area is where we are considering some kind of management action. Before we create our fishing management area, we would do our surveys to see what is there, is it worthwhile to create a managed fishing area, once we create it, we survey to see what affect that protection is providing. We use that information to guide us for future sites.

Member Gomes asked do use that information for sustainable fishing for sites like Haena, or Mo’o mone

Miyasaka replied, we use the data indirectly for places like that, the experience and information we gather around the State can be used to compare with what is the rate of change in places like Haena. Once your create the protection in Haena, there is a process where the resources build up

and we look at how long does it take for that to happen. We are looking at other long term areas, and what happened there. It gives us an idea of what we might expect.

Member Gomes asked if that information was transferred to the working group at Haena? They are the ones managing area.

Miyasaka-DAR, yes, we keep them involved.

Member Gon asked if there is access to the studies/data available to the public?

Miyasaka-DAR, yes, but it is not formatted for the public. It will take time for us to make the data available for the public.

Chair Case conveyed that there is information on the DLNR Aquatic website on the bottom of the first page. There are reports & publications. So when we have a finished product its posted there. There are technical posts and other reports.

Member Gon commented, these kind of studies are important and I am glad to see these requests come before us.

Unanimous approved as submitted. (SG/JG)

Continuation J-2 (regarding Lease/sublease clarification)

Yoshimura-DOBOR, Mr. Downing is correct, it should not read both gross income and gross sales, we will double check, we believe it should be one or the other, we believe it is a typo, and probably should be gross income. It is a defined term in the lease. One needs to be corrected.

Member Yuen: What is Jack's already doing? Their proposed sublease excludes sales under a separate sublease.

Yoshimura-DOBOR, Kona Marine assumed the lease from a firm that went bankrupt. There were existing subleases, one included Jack's Diving operation. None of these operations are percentage operations, they all pay square footage and whatever they pay is part of the calculation of revenue for Kona Marine. In addition, the income from the fuel is included in the revenue. The fuel profit is split between the fuel supplier and Kona Marine.

Underwood-DOBOR, Jack's Diving Locker owns a diving business. They have (2) separate commercial use permits, that they pay a percentage rent on. Diving operations are not going to be included in this convenience store sublease. They also rent a room to store their tanks in. Which is not part of their sublease.

Member Yuen, it was determined that 5% Gross Revenue over the base rent is what the State receives. The variable is the fuel sales and the convenience store which is part of Kona Marine's gross revenue.

Member Roehrig, as a follow-up, he would like to see the leases and proposed subleases, and a clarification of the calculation of how the State is going to collect rent as a result of an existing sublease.

Chair Case, the Submittal is straight forward, we are digging in here to understand the underlying context.

Recess for Executive Session & Lunch
1:25 03.24.2017 (2)

2:20 p.m. Reconvene from Lunch & Executive Session

Chair Case indicated that there are questions regarding lease interpretation.

Member Yuen, presented a Motion Part 1, defer action on J-2; No. 2, when this brought back to the Board, DOBOR should consult with the Department of the Attorney General how the lease rent is calculated for the master lease, proper calculation of the lease rent, report to the Board on the basis of how the rent been collected in the past, this is my explanation, it's not what I am asking the Board to vote on, my quick review of this lease is that it is a percentage lease, in which if a certain minimum is exceeded, it's a lease for fuel dock facilities exclusive at the Harbor and a Sundry store, incidental sales and if a minimum is exceeded they are supposed to pay 5% of gross receipts. Gross receipts are the actual gross receipts of sales the way I read it. The Attorney General will look at it and see if indeed that is correct, the second part of the Motion, I want a report if this is how rent has been collected in the past and if has not, then we have to deal with that at that time. Personally, I would like to see this come back on the May 26th meeting as I will not be here on May 12th.

Chair Case said, three things, defer, consult with the Attorney General on how to calculate the lease rent on the Master Lease, and three report on actual collection. For clarification this lease dates from to 1983 before DOBOR had responsibility for this. DOT had the lease.

Member Yuen said it was extended in 2009, let us go back five years for what has been the basis for collecting rent.

Member Roehrig, I do not think we should presume what we are going to find let us look into and based on what we find we will further decide what we will do, we do not know what we are going to find one thing or another.

Chair Case said, those two items indirectly related to the sub-lease

Member Yuen, rather than approve the sub-lease I want to make sure there is a meeting of the minds among Kona Marine, the sub-lessee and ourselves as to how the sublease affects our right to rent.

Written Testimony submitted by Gentry's Kona Marina & Kona Marine Holdings, LLC.

Item J-2 was deferred to May 26, 2017.

Alyson Yim- Engineering presented Item L-1

ITEM L-1 Appointment of Adman Killerman and David Smith to Serve as Directors of the West Kauai Soil and Water Conservation District.

Unanimous approved as submitted. (Oi, Gon)

Russell Tsuji-LAND presented the following Items, D-1, D-2, D-3, D-5, D-6 & D-10

ITEM D-1 Issuance of Right-of-Entry Permit to St. Theresa School for Parking Purposes for Annual School Carnival on State Unencumbered Lands, por. of Kekaha House Lots, Kekaha, Waimea, Kauai, Tax Map Key nos.: (4) 1-3-004:054 and (4) 1-3-011:001.

Unanimous approved as submitted. (Gon, Oi)

Tsuji-LAND, summarized the why the Lease was mutually agreed upon.

ITEM D-2 Authorize the Mutual Cancellation of General Lease No. S-5823 to Jonathan Akita, Lessee; Kuwaawaa Pasture Reserve, Kalaheo, Koloa, Kauai, Tax Map Key no.: (4) 2-4-003:001.

Tsuji -LAND, mentioned that the land borders forest reserve land and DOFAW is interested in acquiring.

Member Oi mentioned he was familiar with this area, as people were dumping on State land, this pasture lease abuts forestry land and a lot of it is unusable. You only have only so many acres to raise cattle. For this person case he felt he would not be able to make it. I spoke to Alvin Kiono, a long time ago and they were interested in taking the property. You should take a look at the whole area and see what other properties under our jurisdiction are vacant, as there are several small parcels abutting the forest reserve.

David Smith-DOFAW, conveyed that they are interested in this parcel, it provides a good opportunity to add to hunting areas, reforestation, access to the forestry reserve.

Member Gon said he noticed there was not information on the elevation, is it low elevation?

Smith-DOFAW, yes, there is a little valley below it with a little stream in it and next to the forest reserve, we want to be able to provide access and add to the forest reserve.

Unanimously approved as submitted. (Gomes, Oi).

ITEM D-3 **Consent to Assign Grant of Easement No. S-4646, Raymond W. Miller, Michael G. Estep, and Victoria A. Estep, now known as Victoria A. Butler, Assignors, to Zonia Venancia Martinez Morales, Trustee of the Lilikoi Revocable Living Trust dated November 2, 2015, and Rene Castella, Trustee of the Hanalei Bay Revocable Living Trust dated July 6, 2015, Assignees; Omao, Koloa, Kauai, Tax Map Key no.: (4) 2-7-004:012.**

Amend Grant of Easement No. S-4646, to allow the easement to “Run with the Land” and to be assignable without the prior written consent from the Board of Land and Natural Resources.

The Board amended recommendation as follows:

“The easement shall run with the land and inure to the benefit of the real property described as Tax Map Key No. (4) 6-4-001:135 for the term of the easement”.

Unanimously approved as amended. (Oi, Gomes)

Tsuji-LAND, explained why the County wanted to amend the various lots. They came across some burials.

ITEM D-5 **Amend Prior Board Action of March 28, 2014, Item D-4, *Set Aside to County of Kauai for Affordable Housing, Various Lots in Wailua Houselots, Kapaa, Hanapepe, and Waimea, Kauai*, as subsequently amended by Board Action of April 24, 2015, Item D-2; Tax Map Key nos.: (4) 1-6-004:003, (4) 1-9-009:006, 007, 008 & 009, (4) 1-9-010:003 & 033, (4) 4-1-009:054, (4) 4-1-011:016 & 020, (4) 4-5-008:009 & 012, and (4) 4-5-011:007.**

The purpose of the amendment is to delete the three Kapaa Makai parcels from the list of parcels approved for set-aside to the County of Kauai for potential affordable housing sites, identified as Tax Map Key nos.: (4) 4-5-008:009 & 012, and 4-5-011:007.

Unanimously approved as submitted. (Oi, Gon)

Tsuji-LAND, explained the reasoning behind sale of the Flume Right-Of-Way.

ITEM D-6 **Rescind Prior Board Action of June 13, 2014, item D-7, Sale of Flume Right-of-Way Reservation to Charles K. Novogradac and Deborah A. Milks, Papaaloa Homesteads, North Hilo, Hawaii, Tax Map Key no.: (3) 3-5-001:053.**

Unanimously approved as submitted. (Gomes, Gon)

Tsuji-LAND, explained that there is a condition attached to this lease. You have to be qualified under the restrictions of the lease.

ITEM D-7 Consent to Assign General Lease No. S-5131, Cheyenne Kuahuia, Assignor, to Chelsey Lokalia Kuahuia Faavesi, Assignee, Milolii-Hoopuloa, South Kona, Hawaii, Tax Map key no.: (3) 8-9-014:017.

Member Roehrig, the Statue requires, you have to be a decedent of the owner of the property that got covered by the lava.

Unanimously approved as submitted. (Gomes, Roehrig)

ITEM D-10 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display on Encumbered State lands off Ko Olina Beach on April 22, 2017, Honouliuli, Ewa, Oahu, Tax Map Key no.: (1) 9-1-057: seaward of 006.

Unanimously approved as submitted. (Gomes, Roehrig)

Smith- DOFAW presented Item C-2.

ITEM C-2 "Request for Interest" for the design and implementation of a coastal wetlands project using Federal Grant with the U.S. Fish and Wildlife Service, Wildlife Refuge System, Division of Habitat, and Resource Conservation through the Coastal Wetlands Planning, Protection, and Restoration Act, National Coastal Wetlands Conservation Grants Program, and upon Selection, Authorize the Chairperson to Execute a Contract with Successful Providers.

Unanimously approved as submitted. (Gon, Gomes)

Smith-DOFAW clarified that the request should be Approval for Selection of a Competitive Sealed Proposal, not a bid.

ITEM C-3 Request for Approval for Selection of a Competitive Sealed Process for a Hawaiian Hoary Bat Habitat Conservation Plan for Biomass and Timber Harvest in Hawaii.

And

Request Approval of Declaration of Exemption from Chapter 343, HRS Environmental Compliance Requirements for the Project.

Member Gon conveyed that this is really needed. We know too little about the Hoary Bats.

Member Roehrig said that the Hoary Bats fly over his home every evening eating the little bugs in Lapahoehoe. Hamakua has plenty

Member Gon, when the Hoary Bat was proposed for endangered species status they had some information and utilized what information they had, it is become pretty clear that there are more bats in some areas than thought, Oahu being a prime example, but Hawaii Island has always been the prime location for bat population.

Unanimously approved as submitted (Gomes, Gon)

Smith (DOFAW), explained that we would like to do a forest stewardship agreement with them.

ITEM C-4 Request Approval of the Riley Duren Forest Stewardship Management Plan and Forest Stewardship Agreement with Ohia Forest Trust TMK (3) 7-3-048:007, North Kona, Island of Hawaii.

And

Request Approval of Declaration of Exemption from Chapter 343, HRS Environmental Compliance Requirements for the Project.

Chair Case asked, is this the kind of agreement we have been seeking approval from the legislature to increase the funding match on?

Smith (DOFAW), replied yes.

Unanimously approved as submitted. (Gomes, Gon).

Smith (DOFAW), explained the need for the right of entry so they can process federal funds.

ITEM C-5 Authorize the Issuance of a Right-of-Entry Permit to Three Mountain Alliance Foundation to conduct Watershed Management Practices on State Lands on the Island of Hawaii, Tax Map Keys: 1-8-012:003; 1-9-001:001; 2-4-008:019; 2-4-008:021; 2-4-008:025 (portion); 2-4-008:009 (portion); 9-7-001:001, 009, 013, 014, 015, 016, 017, 018, 019, 020, 021, 022; 9-6-006:009, 010, 015, 018; 9-5-015:003 (portion); 8-8-001:005, 006, 007, 008, 010, 011, 012, 013; 8-9-006:001, 002, 014, 017; 9-1-001:002, 003, 005, 006, 007; 7-1-001:001, 002, 003, 004, 006 (portion), 007 (portion) .

Unanimously approved as submitted (Oi, Gon)

ITEM C-6 Request for Approval to enter into a Cooperative Agreement between the American Bird Conservancy (ABC) and the Division of Forestry and Wildlife for \$84,000 in Private and Federal Funds to Support the Core Missions of the Mauna Kea Forest Restoration Project, Maui Endangered Forest Bird Recovery Project and the Kauai Endangered Forest Bird Recovery Project, subject to the Review and Approval by the Deputy Attorney General

And

Request to Authorize the Chairperson to Determine and Approve Chapter 343, Hawaii Revised Statutes (HRS) Environmental Compliance Requirements, Including Approval of Declarations of Exemptions.

On the advice of counsel, I am providing this handout, they said there was not enough detail and wanted you to understand the obligations we are going to have. This handout is specification of non-federal matching funds and obligates \$300,021.00 in matching funds. Some will be in-kind, some of it cash. We have the money this is on-going projects. Basically this is to bring in Federal money to match what is already going on, so its valued added.

Unanimously approved as submitted. (Gon, Roehrig).

Underwood-DOBOR, summarized that this was approved by the Legislature Act 124 in 2016 and we have been chosen as the agency to implement this plan. It is for \$175,000. This is the portion we have to work with. The first thing they need to do is secure a lease for the land by Pokai Bay to build a center. There is also money for design and plans.

ITEM J-3 Delegation of Authority to the Chairperson of the Board of Land and Natural Resources (BOARD) to Approve a Grant-in-Aid Agreement to Na Kama Kai, Inc.

Member Downing recused himself due to family ties to Na Kama Kai, Inc.

Member Roehrig said this project is a good project. However I have concerns with the manner in which we are funding this. I want us to go carefully on this. I reviewed the 501-C3 application for this project. They submitted a proposal to the legislature. They requested a grant for capital improvement expenses. This was not a grant request for operating expenses. The house bill that became Act 124 for 2016, Section 28.1 discusses "provided that the General Fund appropriation for Fiscal Year 2016/2017, for ocean based recreation, LNR801, is that a capital improvement or operating fund account or both?"

Underwood replied, it is the Boating Special Fund account.

Chair Case said, just to summarize, we want to make sure the direction from the legislature on applying these funds to capital projects and where the money went and where we draw the money for the Grant in Aid matches the Legislature direction. I want to suggest in our recommendation that for due diligence purposes, make sure it goes to these purposes not for operations so the distribution of the funds is not on a regular basis, but when they have their property lined up and it can be used for acquisition and planning. Part of our due diligence is they got a fee or leasehold interest on which to construct the building before we disburse any funds. I would like to recommend we amend this submittal:

"Authorize the Chairperson to sign the necessary documents, subject to available funding & subject to confirmation that the funding will go to land acquisition and design purposes."

Unanimously approved as amended. (Yuen, Gon)

Chair Case asked if there was a motion to adjourn. (Gon, Gomes)

Meeting Adjourned 4:45 pm