

10/13/2017

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

DATE: FRIDAY, SEPTEMBER 8, 2017
TIME: **9:30 A.M.**
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

MEMBERS

Suzanne Case
Thomas Oi
Stanley Roehrig
Sam "Ohu" Gon

James Member Gomes
Chris Yuen
Keone Downing

STAFF

Russell Tsuji-LAND
David Smith-DOFAW
Ed Underwood-DOBOR
Ross Smith-DOT-AIRPORTS

Alton Miyasaka-DAR
Kevin Moore-LAND
Megan Statts-DOBOR
Candace Martin-LAND

OTHERS

Vince Krog/D6
Steven Ellis/K1
Joseph Bork/D6
Various/J-1

Luana Froiseth/D4,5
James Keamana Sr./K1
Carl Reber/D6

Chair Case called the meeting called to order at 9:32. She stated the Contested Case advisory.

ITEM D-6 Authorize the Chairperson to Enter, on behalf of the Department of Accounting and General Services, into a License with the Secretary of the Army for a Radio Station Facility, Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-2-005: portion of 029.

Russell Tsuji, Administrator, presented this submittal on behalf of Land Division. Vince Krog was present representing ICSD.

Board Discussion

Member Gon noted that if this is the facility on the top of Mauna Kapu on Pali'uli Road, that there is an endangered Achatinella snail. He noted that regular maintenance could harm the snail and wanted to make sure that the Army is notified that the snail is there, so it could be protected. Member Gon did not feel it necessary to add conditions to the submittal but counted on the Chair to ensure that the Army is notified of the situation and take precautions to address the snail habitat.

Public Testimony - None

Motion

Approve as submitted (Gon/Gomes) unanimous.

ITEM D-4 Issuance of Right-of-Entry Permit to Na Wahine O Ke Kai, for 4 Annual Canoe Race Events to be held September 2017 through September 2020; Hale O Lono, Kaluakoi, Molokai, Tax Map Key (2) 5-1-002: 012 por.

ITEM D-5 Issuance of a Right-of-Entry Permit to the Na Wahine O Ke Kai for 4 annual Canoe Race Events to be held September 2017 through September 2020, at Waikīkī, Honolulu, O‘ahu, Tax Map Key: (1) 2-3-037: portions of 021.

Russell Tsuji presented on behalf of Land Division. He noted that the testimony requested that the Right of Entry be extended one year. Tsuji noted dates often change and then the item needs to come before the board, and that its very time consuming for Staff. Therefore, he is asking that one year be added to the term of the ROE and that the ROE be good for a total of five (5) days around the race date, rather than three (3). If the amendments are granted it would be simpler to accommodate the applicant’s request for a date change.

Board Discussion

Member Yuen wanted to discuss rent. Believes that these non-commercial, non-profit events are being charged more than commercial lessees if you figure the cost over one year. Suggests that the charge be \$.05 per square foot where there is no commercial element, event is recreational, and there are no competing uses for the space.

Member Gomes verified that the intent was to charge \$.05 going forward. Chair Case verified that Na Wahine O Ke Kai is a non-profit 501 (c) (3) and its events are open to the public. The Board had a discussion on what kinds of events may qualify for a reduction in rent. Events with major sponsorship would not qualify, even if they are run by non-profit groups.

There was also a discussion on whether groups other than the non-profit in charge of the event are making money and how the Board can distinguish between applicants.

Member Downing said the conditions need to be clear. Foremost would be a space which does not have other uses. For example, rent reduction should not apply at places where there are competing public uses requiring areas of the beach or ocean to be closed for the event. Hale o Lono has few other uses. The event should be an amateur event. Thus, pro-surfing events would not qualify. The event should benefit Hawaii.

Chair Case noted that the charges need to cover the costs to administer the ROE or Lease. In addition, Tsuji pointed out that fees cover the maintenance for certain beaches. For example, fees from the Honolua World of Surf are structured to assure beach maintenance is covered, which was the Legislative intent when it gave Honolua to the Department.

Tsuji noted that the fees for Wahine O Ke Kai do not cover the costs for this event. Member Roehrig noted that the state could be responsible for injuries or other outlier costs, and these also need to be covered.

Public Testimony

Luana Froiseth representing Na Wahine o Ke Kai and Moloka'i Hoe approached the table. She noted that once the race had freak waves which made getting out of the harbor difficult, but the race itself was calm. She also noted that her organization breaks even at best. She said if the rental money went to clean-up of Hale o Lono, she would be fine with it, but noted that it does not.

Amendment: Charge \$.05 per square foot for events that meet the following conditions.

- ***Non-profit***
- ***No significant interference with other public uses***
- ***Public benefit***
- ***No major state maintenance expenses***
- ***Recreational***

The Board will still need to look at these and see if they fit the Board purposes on a case by case basis. Also add Tsuji's amendments to:

- ***Add a year so the ROE application runs for race events through 2021.***
- ***Delegate staff to change the date of the event without Board approval within the ROE timeframe.***
- ***Add up to 2 days to ROE to allow for date changes within that timeframe.***

Rent would be adjusted according to the policy at the time the event is held.

Motion

Member Oi seconded the motion to approve Items D-4 and D-5 Oi as amended.

Unanimous.

The Board noted that this policy is not retroactive, so since the Moloka'i Hoe was already approved, if they wanted the reduced rent, they would have to come back before the Board to change the fee structure.

The Board also noted that the rent change amendment applies only to D4, Hale O Lono, and not to D5, Duke Kahanamoku Beach, Waikīkī, which does not meet the conditions because there are competing public uses.

ITEM K-1 Conservation District Use Application (CDUA) HA-3798 for the Proposed Establishment of a National Ecological Observatory Network (NEON) Field Study Site by the National Science Foundation at the Pu'u Maka'ala Natural Area Reserve Located at Upper Waiākea and Ola'a Forest Reserves, Island of Hawai'i, Tax Map Keys: (3) 1-8-012:003; 1-9-001:001; 2-4-008:009, 019 & 025.

Sam Lemmo presented for OCCL. This is part of a National Ecological Observation Network. Designed to study the impact of climate change on natural resources on a continental scale. It is located near Kulani correctional facility. Public uses are hiking, bird watching and hunting. This is a 30-year project.

Facilities

A 105-foot-tall research tower. The tower would extend 10-meters above the tree canopy. Guy wires will stabilize structure. There will be an instrument hut at the facility. Several ancillary facilities to collect data are planned. Some of these plots are as large as 250 square meters.

Three full time staff on will be on site. Construction discussed in Staff report, including impacts and mitigation. An EA was published and given a FONSI on Aug 8, 2017.

A Cultural Impact Analysis found no impacts to cultural practices. Staff recommends authorizing use.

Steven Ellis, with the National Science Foundation, asked for one modification—want to ensure that removal of facility does not violate the anti-deficiency act. Specifically, the Federal Agency cannot commit funds that the Congress has not awarded.

Board Discussion

Member Gomes specified that at the end of the 30 years they may not have the funds to clean the property. The Board clarified that there is no specific land disposition, such as a lease or easement, in this case. The project went through the NARS commission on July 21, 2017—noted in the submittal.

Member Oi asked how visible the tower would be to the public?

Applicant noted that the visual disturbance would be minimal because it is in such a remote area. The tower needs to be above the tree canopy to measure how the trees below release gases. Therefore, the tower cannot be camouflaged with fake tree branches. However, they can camouflage with paint.

In response to concerns from Member Roehrig, a representative from DOFAW noted that they have had discussions with the Kulani Warden. Applicant noted they have a separate access although they may want to negotiate access through Kulani for construction materials.

Public Testimony

James Manaku wanted to ensure that the area does not become closed to hunters over time. He also supported painting the tower green. Noted that projects tend to say they will not affect hunting, but that over time, they start limiting hunting areas in favor of their projects.

Amendment: Add language regarding the Anti-Deficiency Act.

Motion

Approved as amended (Roehrig, Yuen) unanimous.

ITEM J-1

Request Approval to Adopt Amendments to Title 13, Hawai'i Administrative Rules (HAR) Sections 13-230-4 Penalties and Prosecution, 13-230-8 Definitions, 13-230-25 Particular Categories, 13-231-3 Use Permits; Issuance, 13-231-6 Revocation of Use Permit, 13-231-13 Joint and Several Liability; Non-Transferability of Use PERMITS, 13-231-15 Boat Owner Required to Report Change of Ownership, Address, and Other Changes, 13-231-26 Use of a Vessel as a Place of Principal Habitation, 13-231-28 Staying Aboard Vessels Moored at Ala Wai or Ke'ehi Small Boat Harbor, 13-231-29 Vessel used as a Vacation Site 13-231-45.

Marine Inspections, 13-231-56 Definitions, Gross Receipts, 13-23-1-70 Water Taxi Operations, 13-232-8 Marine Toilets Restrictions, 13-232-10 Backflow Prevention Connections To Water Line— Use Of Water Operated De-Watering Device Prohibited , 13-232-30 Fire Signal For Vessels In Small Boat Harbors, 13-232-57 Dogs, Cats Or Other Domestic Pets, 13-232-58 Sleeping Or Camping Prohibited, 13-232-60 Serving, Sale, And Consumption Of Liquor In State Boat Harbors And Boat Launching Facilities, 13-233-13 Operation, Parking, Or Storage Of Bicycles Or Play Vehicles, 13-233-29

Eligibility For Parking Permits; Fee Per Vehicle, 13-235-5 Owners Required To Report Change In Ownership, Address And Other Changes, 13-235-9 Restrictions On Anchoring Or Mooring Outside Of A Designated Offshore Mooring Area, 13-242-1 Duty To Render Aid And Give Information, 13-242-3 Immediate Notice Of Accident; When Required, 13-242-4 Written Boating Accident Report; When Required, 13-243-4 Mufflers, 13-244-15.5 Operation Of Power Driven Vessels, 13-244-19 Authorization Required To Hold Regatta, Marine Parade, Boat Race Or Exhibition, 13-244-29 Makapuu Ocean Waters, 13-244-37 Zone A, Zone B, Ingress/Egress Zones, And Ingress/Egress Corridors, 13-245-9 Diver's Flag, 13-251-57 Waikiki Ocean Waters, 13-253-1.3 Gross Receipts, 13-255-1 Purpose And Scope, 13-255-6 Waikiki Beach Uses And Activities; Restrictions, 13-256-3 Commercial Use Permit Or Catamaran Registration Certificate Requirements, 13-256-5 Commercial Use Permits; Public Auction, 13-256-7 Business Transfer Fee, 13-256-8 Owner Required To Report Change In Ownership, Address And Other Changes, 13-256-12 Gross Receipts, 13-256-16 Thrill Craft Operations; General Provisions, 13-256-17 Recreational Thrill Craft Operations, 13-256-21 Ultralight Float Equipped Aircraft, 13-256-22 Tow-In Surfing, 13-256-56 Wailua River Restricted Area, 13-256-63 Sharks Cove, Three Tables And Waimea Bay Ocean Waters,

13-256-73.5 Large Snorkel Tour Permit Restrictions, 13-256-74 Kailua Ocean Waters Restricted Zones, 13-256-88 Maunalua Bay Waters, 13-256-91 Waikiki Ocean Waters Restricted Zones, 13-256-112 Maui Humpback Whale Protected Waters, 13-256-128 Baldwin Park-Paia Bay Restricted Area, 13-256-162 Makaiwa Bay Swimming Zones; And To Amend Title 13, HAR To Add New Sections 13-232-57.1 Feeding Of Wildlife Or Feral Animals Prohibited, 13-232-57.2 Animal Abandonment And Creating Or Contributing To Colonies Prohibited; And To Repeal HAR Sections 13-230-21 Definitions, 13-240-5 Definitions, 13-243-5 Recognition Of Marine Examination Decals, 13-245-2 Definitions, 13-250-5 Definitions, 13-254-1 Definitions, 13-255-5 Definitions,

13-256-35 Owner Required to Report Change in Ownership, Address, and Other Changes, Based on Public Testimony That Was Received during The Rule Making Process. Attached to This Agenda and Incorporated Herein are the HRS Chapters (Exhibit A) and DOBOR Recommended Changes to 13-245-9 (Exhibit B).

Ed Underwood presented the staff report and gave a history of public testimony.

Main points:

- Kite Boarding Rules are not in the package. They will be addressed in another rule amendment package.
- 72-hour anchoring rule—addresses what do you need to do after 72-hours?
- Noted that a lot of changes are in the definitions. The definitions from three chapters have been consolidated into one section

Amendment to dive flag rules. Leave requirement to illuminate dive flags at night, but take away all other changes (245-9), because there is confusion in the way it is written. It may require any snorkeler to carry an illuminated dive flag. This change is a part of the submittal and considered non-substantive (see Exhibit B).

Feral animals (cats) generated the most comments. Feral cat colonies are not permitted in small boat harbors and have never been permitted. DOBOR wanted to codify this in rules.

Board Discussion

Chair Case noted that about 20 people signed up for J-1 so she will ask that testimony be limited to 3- minutes.

Member Downing would like to comment on page 96 regarding fines for public employees providing inside information on sealed bids. Believes \$250 fine is not enough of a deterrent. Underwood noted it can go into another amendment package. Member Downing followed up by asking how potential bidders find out when these permits become available? Underwood answered that all commercial use permits are year to year, but they can renew each year, which means that they rarely become available. Statts noted that they have a list of interested parties.

Public Testimony

Thirteen people testified in opposition to the proposed rule changes for 13-232. Four people testified in support of the rule change.

Nine people testified before lunch, eight people testified after lunch.

Those in opposition made the following points:

- Trap, Neuter, Release (TNR) is a more effective way to reduce stray cat colonies. They do not believe killing or starving cats will reduce the population because they will still be able to breed, thus increasing the population of feral cats in the harbor. Killing cats will create space for other cats to come into the area. TNR reduces populations over time. Usually takes about fifteen years for a population to die out.
- Felt that DLNR had not worked with the various TNR groups to come up with a solution to the cat problem. Encouraged DLNR to work with cat advocates for a more humane solution.
- Proposed rules changes are inhumane and contrary to other state laws which prohibit cruelty to animals and killing pets.

- The penalty for abandoning cats should be increased, because that this the crux of the problem.
- Improper notice of rule changes.

Those who supported the rule changes made the following points:

- Cat urine and feces pose a health hazard to both humans and marine mammals
- Cat urine and feces can be found all over the harbor, and in canoes stored at the harbor and the smell is very problematic.
- Toxoplasmosis is a real threat to marine mammals, especially monk seals. Six deaths to monk seals have been caused by toxoplasmosis.

The Board commented on the following items:

- Do people who feed cats pick up the feces. Several mentioned that they do.
- Would people be willing to work with DLNR to Trap, Neuter and Relocate the cats? The Board noted that the goal of the rules is not to kill cats, but the DLNR does not believe that harbors are the proper place for cats. John White, representing Alley Cat Allies agreed to work with DLNR on a Trap, Neuter and Relocate program. One testifier (Humane Society) said relocating cats is ineffective for two reasons, 1) cats are territorial and therefore do not relocate well, and 2) other cats will just move in to take the place of the cats that were removed. Chair noted that the cat sanctuary on Lanai seemed to be a good model.
- What are legal ways to kill a pet? Euthanasia by a vet. In extreme circumstances shooting one's animal is okay.

After public testimony was closed Member Gon moved that the Board go into executive session to consult with their attorney.

12:20 p.m. Board went into Executive Session

1:15 p.m. Board returned from Executive Session

Chair Case thanked Staff and testifiers for their work on this issue. She said that she would commit to working with the people on trap, neuter and relocate cat in the harbors.

Member Gon noted that his main concern is whether the Board can make changes to the rules. He noted that the rules allow for trap, neuter and relocating. The section against abandonment is also allowable, as it is mainly against people who abandon their cats at the Harbor. The main issue is the disposal of animals. Suggestion is to defer this item until a later date. However, the rule would be approved.

Member Yuen moved to accept the submittal as written, including the changes to the dive flag rules in Exhibit B, however to delay the portion of 232-57 (b) that refers to HRS §183D-65 until January 1, 2019. The department could continue its practice of taking animals to be euthanized until that time. This would give people working with cats a chance to remove cats from harbor.

Motion

Approve as amended. Member Gon second the motion. Unanimous.

Written Testimony Opposed:

Janet Goodmason, Joel Fischer, Juds Weatland, Caroline Azelski, Deborah Wilson, Shawne Schmidt, Cyndy LaPorter, Brain Lee, Kathy Chang, Alex Tse, Wayne Niide, Shigeko Roser, Edwin Lesperance, Wendy Nitta, Alexis Jamison, Audrey Lagapa, Cecilia Alvarado, Prem Choppala, Tabitha Lee, Dayle Wada, Kim Murphy, Emi Au, Ingrid Deoliveira, Beverly Toledo, Michele Velasco, Brian Baptista, Paula Carroll, Mercedes, Koren Ishibashi, Denise Towle, Lisa Thompson, Lynn Fujimoto, Susan Collins, Celia Lee, Diane Ota, Dana Jenkins, Gail McElrath, April Schroeder, Christy Kohama, Francine Pinoni, Joanne Brottomley, Jacqueline Diaz, Joanna Viviano, Jerry Whitehead, Lindsay Hilchey, Sheila Schmaldienst, Wendy Mecum, Audy Kimura, Sherry Sennet, Shari Lee-Huntoon, Kathie Gossett, Susan Starrett, Cheryl Jarrette, Bill van de Hurk, Tami Schatz, Krista Goodwin, Jmonandtdad, Fern Dog, Lisa Kart, Donna LaBelle, Kelley Streadbeck, Angie Ali, Jennifer Chiwa, Theresa Giovanetti, Rich Thompson, Jesse McCoy, Kana McCoy, James Roser, Christin Matsushige, Cary Matsushige, Mary James, Katherine Linster, Linda Greentree, Judy Kocon, JoAnn Takushi, Alberta Freidus-Flagg, Gunner Mench, Helene Navaro, Bonnie Fujii, Basil Scott, Barney Elders, Patricia Rivera, Michael May, Barbara Sterne, Maureen Longtin, Mary Menacho, Susan Bambara, Lynn Sinclair, Neal Isaacs, Sandie Wong, Cindy Thurston, Jeanne Alford, Joy Banks, Laurel Gregory, George Linnik, Dorothy Bach, Cindy Keiki, Rae Tadaki, Liane Corcoran, Tanya Yamanaka Aynessazian, Etta Karth, Elizabeth Swan, Ronald Morioka, Penny Atcheson, Robert Ewen, Caroline Nadalin, Louella Harding, Ann Sakagawa, Chivas Miho, Roberta Ferm, Donna Eghan, Patricia Sabater, Veo Ryan, L Gyori, Rudolph Cordeiro, Nancy Putman, Hamid Jahanmir, Bee Henderson, Caroline Nadalin, Tara Gadarowski, Djiann Colton, Avi Okin, Peter Altomare, Dr. Kathleen Baker, Dulice Reden, Diane Paracuelles, Helen Savadge, Kathy Seiple, Robert Shereda, Andy Singer, Shelly Esmeralda, Meena Charucksiri, Mary McJimsey, Cristi Rasmussen, Robin Swanson, Michele Nahipali, Janine Wiehl, Joann Kelnhofer, Raymond Rusalavitch, Traves Honda, Glenn Mackay, Nicole Busto, Edie Vajda, Barbara Steinberg, Dustine Aiu, Kakuko Shoji, Wendy Ishibashi, Dave Kisor, Kay Carlyle, Maxwell Adams.

Support:

Leialoha Kaluhiwa, Piilani Kaawaloa, Winifred Basques, Thomas Hashimoto, William Kaholoaa Sr., Nancy Davlantes, Sheri Mann, Lisa Crampton, Keau George, Julie Rivers, Amanda Pavese, Jody Smith, David Smith, Grant Sizemore, Jamie Harris, Dr. Kamana'opono Crabbe

ITEM C-1 Request Approval to Renew a Memorandum of Understanding between the Department of Land and Natural Resources, Division of Forestry and Wildlife and the United States Department of the Interior, National Park Service for Providing Mutual Aid in Firefighting Activities.

David Smith presented for DOFAW. This is for a five-year renewal of an MOU with the National Park Service to share fire services. The MOU now includes game management areas, the City and County of Honolulu, and other updates. Change to an incident command structure which allows the agencies to work closely with each other.

Board Discussion

Member Gomes asked if they interact with the National Park in terms of training. Smith said that they do.

Public Testimony - None

Motion

Approve as submitted (Gomes, Gon) unanimous.

ITEM D-1 Annual Renewal of Revocable Permits on the Island of Hawai'i. See Exhibit 2 for list of Revocable Permits.

Russell Tsuji presented for the Land Division. This is the annual renewal for renewable permits for Hawaii Island. Majority of revenue from these RPs go into a subaccount to pay for a possible shortage in payment to the Office of Hawaiian Affairs.

Board Discussion

RP 5127, Member Yuen noted that this area is not supposed to be grazed because it is a forestry area. The RP is to McCandless Ranch and Cattle. They are supposed to get an easement for access across this property. Suggested RP 5127 be terminated and reissued as an access only RP. The Board had voted in the past to change this to an RP for easement, rather than for pasture, even if it is not currently being used for grazing.

Tsuji suggested that the land be turned over to DOFAW and they can use as they need and have the easement that they need. It borders the South Kona bird sanctuary. Tsuji would like to turn property over to DOFAW, if DOFAW is agreeable. Chair Case agreed.

RP 5127 will be removed from the list and brought back later. When it is brought back it should address both McCandless Access and either easement or possible transfer to DOFAW.

RP 7751 (p. 25). Glover LTD. Should have a long-term disposition. Member Roehrig believes rent is too high for a storage facility.

The Board had a discussion on the rate of transfers from RPs to long-term dispositions. Overall, The Board members feel that Staff is moving too slowly on these transfers. Chair Case noted that she wants to give the staff a chance to prioritize RPs. She does not mind shrinking the list slowly, as long as priority RPs are addressed.

Member Roehrig wants the Parker Ranch RPs to be a priority. He suggested that there should be a land exchange with Parker Ranch, where the State trades all of the little pieces that are important to Parker Ranch for a piece of land that is important for State uses.

Tsuji pointed out that Staff is working on two exchanges with Parker Ranch, but that land exchanges are costly in terms of Staff time and the due diligence that needs to be done. Both the Legislature and the Governor need to approve land exchanges. Member Downing noted that he focused on OHA's letter.

RP 7715 to Jerry Egami. The area where the hawksbill turtles nest needs to be excluded from the lease, so the maps are not complete. Kamehame hill is being excluded from the lease. There is also a boundary question. The western edge of the beach may be part of this parcel.

RP 7789 Beach Concession in front of King Kamehameha Hotel. Member Roehrig wanted to discuss opportunities for this concession to go to a non-profit that would provide community benefits. However, since the focus of the Agenda item is to approve RPs, it was suggested the Member Roehrig discuss his ideas with the Land Division Staff.

RP 7758 Kapapala Ranch-page 26. This property is being transferred to DOFAW. Member Roehrig expressed concern about the status of the current lessee when the transfer is completed. There was a brief discussion about the process to get to a long-term lease, and whether it would be better for Staff to bring proposals for public auction to the Board later in the process.

RP 7841 to Kitagawa. This is a 50-ft. wide railroad easement that parallels Ocean View Drive. Kitagawa uses it for parking. Staff explained that the harbor is interested in this parcel for the new entrance to the harbor.

Chair Case noted that OHA put a lot of thought into their comments, so Staff should provide a thoughtful response.

Candace Martin-Land, Hawaii Island Land Agent, noted that RP 7159 is in the process of being put up for public auction for a lease. However, there are a couple of easements that are being addressed. There is also mistake on the Tax Map Keys, so none of the parcels are in the conservation district. Parcels 5, 7,8,10 will not be part of the lease. In addition, anything above the 11,000-foot elevation will be used for conservation. Martin will have to come back to the Board for an approval with all the corrections included in the submittal.

RP 7867 AOA of Country Club Hawaii, Inc.—Joseph Bork, President of AOA of Country Club Hawaii approached the table and noted that they have been working very hard to bring the building up to code. The submittal noted that there are multiple code violations for this property. Bork noted that they have addressed the following issues:

- All fire code violations that they could correct have been corrected.
- County Fire Department will come out to test the fire extinguishers and will verify whether the building meets fire code at that time.
- Working through the various building permit violations.
- Structural engineer has been hired to do a structural assessment. There is concrete spalling, but no immediate safety issues. Will have a more thorough evaluation in three years.

The AOA is in better financial shape. They are working on paying back their debt, and have paid down \$400,000. They are also able to do many of the improvements required. Bork explained that if they continue their course and continue to attract new members to their AOA they should be able to raise funds. Because they are on an RP they use a possession agreement which allows for occupation of a specified space for as long as there is an agreement on the property (RP), in exchange for money and regular maintenance fees. There are about 130 units that can be put into service. About 50 of these units are occupied. Thus, there are potentially 80 units available as hotel/condo units. Explained their monthly expenses and long-term goals. Agrees that this property should be used as an extended stay hotel. Bookings would be on-line.

Member Roehrig expressed concerned about the legality of a possession agreement on a property with no long-term lease. He does not think it is appropriate for them to spend a lot of money on improvements with no guarantee of a long-term lease. Suggested that the Board hire a real estate management firm to give the Board a report on the status of the property, and what to do with it in the future. Bork supports this idea.

Carl Reber—Has had a unit at Country Club Hawaii for over 20 years. He supports this new Board and looks forward to a good set of books.

Member Yuen moved to go into executive session to consult their Attorney. Member Oi second.

2:40 p.m. Board went into Executive Session

3:20 p.m. Board returned from Executive Session

The Board made the following amendments:

- 1. Directed the Staff to examine the status of the possession agreements.***
- 2. Provide a list of people with possession agreements.***
- 3. No further sales of possession agreements for the next six months while the Staff researches the possession agreements.***
- 4. Report back in six-months on the status of the Condominium Association.***
- 5. Correct all violations.***

RP 7892 Reed's Bay Hotel has similar code violations and difficulty getting a loan to address them because they do not have a long-term lease. Staff is working with this property owner, and it was suggested that they continue discussions off-line.

Public Testimony - None

Motion

Amendment for Reed's Bay Hotel to correct all violations.

Approved as amended (Yuen/Roehrig) unanimous.

ITEM D-2 Approve a 10-Year Term Extension of General Lease No. S-5001, Pubtime, Inc., Pursuant Lessee, Act 207, Session Laws of Hawai'i 2011; Waiākea, South Hilo, Hawai'i, Tax Map Key: (3) 2-2-032:010.

Candace Martin and Russell Tsuji of the Land Division were available for questions, but had nothing to add to the written submittal.

Board Discussion-None

Public Testimony - None

Motion

Approved as submitted (Gon, Yuen) unanimous.

ITEM D-3

Lease No. S-4300, William A. Miller, Sublessor, to 808 Billiards LLC and Aloha Pallets & Distribution LLC, Sublessees; Lot 1-A, Hilo Industrial Development, Pohaku Street Section, Waiākea, South Hilo, Hawai'i, Tax Map Key: (3) 2-2-058:035;

and

Consent to Sublease of General Lease No. S-4300, William A. Miller, Sublessor, to 808 Billiards LLC and Aloha Pallets & Distribution LLC, Sublessees; Lot 1-A, Hilo Industrial Development, Pohaku Street Section, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-058:035; and

Approve a 10-Year Term Extension of General Lease No. S-4300, William A. Miller, Lessee, Pursuant to Act 207, Session Laws of Hawaii 2011; Lot 1-A, Hilo Industrial Development, Pohaku Street Section, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-058:035 & 040.

Russell Tsuji-LAND presented submittal. He noted that staff had done an inspection and noted improvements that needed Board consent.

Board Discussion- None

Public Testimony - None

Motion

Approved as submitted (Oi, Gomes) unanimous.

ITEM E-1

Forfeiture of General Lease No. SP0106, Maria K. Cox Revocable trust, Lessee, Kōke'e State Park, Waimea (Kona) Kaua'i, Tax Map Key: (4) 1-4-002:047.

Curt Cottrell presented for the State Parks Division. He noted that the lessee for this parcel is \$5,890 in arrears. Parks would like to remand to the Attorney General for collection.

Board Discussion- None

Public Testimony - None

Motion

Approve as submitted (Oi, Gomes) unanimous.

- ITEM M-1** Amendment No. 9 to Concession Agreement Concession No. DOT-A-07-0001, In-Bond (Duty Free) Concession, Request for Additional Spaces for In-Bond (Duty Free) Use, DFS Group, L.P., Daniel K. Inouye International Airport, (1) 1-1-003.
- ITEM M-2** Amendment No. 4 to Concession Agreement No. DOT-A-09-0002, Retail Concession, Request for Additional Spaces for Retail Use, DFS Group, L.P., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-03: 1.
- ITEM M-3** Issuance of a Direct Lease, Office and Warehouse Space for Regulated and Biohazard Waste Sterilization Business to NCNS Environmental, Inc., 2989 Ualena Street, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-04: 19.
- ITEM M-4** Issuance of a Revocable Permit for Aircraft Parking, Hawaii Aircraft Leasing LLC, Kalaeloa Airport, Tax Map Key: (1) 9-1-13: Portion of 32.
- ITEM M-5** Issuance of a Revocable Permit for Aircraft Parking, Valley Isle Aviators LLC, Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.
- ITEM M-6** Issuance of a Revocable Permit for a Building Space for Freight Forwarding of Air Cargo, Aloha Contract Services, LLC, Līhu‘e Airport, Tax Map Key: (4) 3-5-001: 146.
- ITEM M-7** Issuance of a Revocable Permit for a Building Space for Freight Forwarding of Air Cargo and Three Vehicle Parking Spaces in the Cargo Building Parking Lot, Commodity Forwarders, Inc., Līhu‘e Airport, Tax Map Key: (4) 3-5-001: 146.

Ross Smith, Department of Transportation, Airport Division was available to answer questions.

Board Discussion

Regarding Item M-3, Member Downing asked why they are doing a direct lease on this property, when last month Smith had said Airports only does Revocable Permits? Smith noted that this is on Ualena Street where they are offering five (5) year leases. The Board expressed concern about two things:

- 1) How will Airports ensure that parties who may be interested a parcel are informed about the availability of the parcel, so that there is equal access to bid on the lease.
- 2) How will Airports ensure fair rent if the rents are going up in October, and this lease is being quoted at the old rent rate?

Member Downing moved to defer M-3 and bring it back with revised rent rates and request for approval to go out to public auction.

Defer Item M-3.

Public Testimony - None

Motion

Approve Items M-1, 2, 4, 5, 6, & 7 as submitted (Downing, Gomes) unanimous.

Motion to adjourn (Gon, Gomes) unanimous.

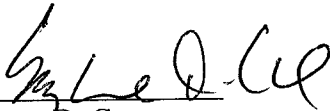
There being no further business, Chairperson Suzanne Case adjourned the meeting at 5:25 p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and available for review. Certain Items on the agenda were taken out of sequence to accommodate applicants or interest parties present.

Respectfully submitted,



Darlene S. Ferreira
Land Board Secretary

Approved for submittal:



Suzanne D. Case
Chairperson
Department of Land & Natural Resources